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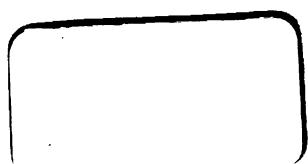
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STATUTES AT LARGE

OF THE

STATE OF NEW YORK,

COMPRISING THE

REVISED STATUTES,

AS THEY EXISTED ON THE 1ST DAY OF JANUARY, 1867,

AND ALL THE

GENERAL PUBLIC STATUTES THEN IN FORCE, WITH REFERENCES TO JUDICIAL DECISIONS, AND THE MATERIAL NOTES OF THE REVISERS IN THEIR REPORT TO THE LEGISLATURE.

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VOLUME III.

CONTAINING AN INTRODUCTION; AN ANALYSIS OF THE CONTENTS OF VOLUMES 2, 4, 5, AND THE FIRST NINETEEN CHAPTERS OF PART FIRST, "OF INTERNAL ADMINISTRATION."

PUBLISHED BY

WEED, PARSONS & COMPANY,

ALBANY, N. Y.

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JOHN W. EDMONDS.

SECOND EDITION.

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INTRODUCTION

TO THE

GENERAL STATUTES.

THE following compilation is intended to embrace only all the statutes in force on the first of July, 1862, which are of general application and not merely temporary in character.

I have followed the topical arrangement adopted in the Revised Statutes, not because I deemed it the best that could be devised, but because an adherence to that plan would be most convenient, and a departure from it would produce all the annoyance of two systems on the same subject.

That annoyance is manifested—in a small way—in the Code of Procedure. The Revised Statutes are divided into Parts, Chapters, Titles, &c., making chapters more comprehensive than titles. In the Code this order is reversed so far as to make titles more comprehensive than chapters.

Whatever may have been the motive for this change, the inconvenience of it is obvious, and the incongruity it produces is illustrated by Chap. IV of Part Third of the Revised Statutes in this edition, as amended by the Code, where a strange jumble of chapters and titles will be found.

An anecdote related in Campbell's "Lives of the Chancellors," repeated here (without its profanity) will explain the principle that has governed me.

Thurlow, while Lord Chancellor, was waited upon by a delegation of dissenters to persuade him to favor some measure for their relief, at the expense of the established religion, and his answer was: "I am opposed to the measure. I go for the established religion not because it is any better than yours, but because it is established. Get your religion established and I will go for that."

The mischief of any other principle in the matter I have in hand must be obvious to any one who has frequent occasion to refer to our statutes.

Yet I have, at times, been much embarrassed to determine under what topic to locate particular enactments where they embrace several subjects.

For instance: One of the Fee Bills contains provisions as to judgments and executions, and the power of the courts over them, and my doubt was whether the act should be arranged under the topic "Fees and Costs," or under "General Provisions as to Courts," or under "Judgments and Executions."

So of a wife's insuring her husband's life, whether the act should be located in Part Second, under the head "Domestic Relations," or in Part First, under the head "Insurance."

So of the act of 1831 to abolish imprisonment for debt, whether it should be arranged under the heads "Arrest," "Execution," "Debtor and Creditor," &c.

The Revisers to avoid this embarrassment, in their second and third editions cut the act last mentioned to pieces, published parts of it under four different heads, and left out a part altogether.

The enactments in regard to banking, the revision gave to us a portion under the head of Corporations, in Chap. XVIII of Part First, and a portion under the head of Police, in Chap. XX, Part First.

So the enactments in regard to roads were given, part under the head of Highways, Bridges and Ferries, in Chap. XVI, part under the head of Corporations, in Chap. XVIII, and part under the head of Police, Chap. XX.

Having adopted the order of arrangement of the Revisers as the most convenient for us under the circumstances, I was often embarrassed to determine where to locate a particular statute. I had no power to divide it into parts and scatter the parts about in different

chapters, and I have therefore pursued the plan of putting all the subsequent legislation under one only of the heads of division, which the Revisers had established. Hence all that relates to banking in the general laws will be found under the head Banking, in the chapter as to Internal Police; all relating to roads, under the head Highways, Roads, &c., and so on throughout.

Still I am conscious the reader will be frequently annoyed by the difficulty of finding where an act is located in my compilation.

I am made to feel that this difficulty is inherent in the very nature of the subject, and I have been unable to discover any means of avoiding it. I can therefore sympathize with those who may use this compilation when they encounter it; for familiar as I have become with the statutes and the analysis on which they are gathered together, I have not unfrequently found that when I had a case which I wanted to cite, it would cost me more time to find the appropriate act in my compilation than it had to find the case in the reports.

To do what I can, however, to overcome the difficulty, I annex an analysis of the topical arrangement with a reference to each statute comprehended under the several heads, such reference being by the year when the acts were passed, the numbers which the chapters bear in the Session Laws, and the general subject of the enactment.

That will aid some, and seems to be all that is in my limited power as an editor to accomplish. I have a strong desire that it shall not be felt of my compilation, *Nunc huc, nunc illuc, et utrinque, sine ordine, currit*, and I would that I had been able to do better.

There will be frequently found, in this compilation, errors in the statutes, which, without explanation, might be deemed attributable to the editor. From the pains that has been taken to have this compilation correspond with the originals, it is believed that few or none of those errors have their origin otherwise than in the originals, or in the authorized publication of the laws. At first, it was attempted to indicate the source of the errors by foot notes—"sic in original," but it was found that those notes would be so numerous, that it was deemed enough to call attention to the fact by this general remark.

There also are difficulties inherent in the subject which an editor cannot correct. The carelessness with which bills are engrossed for signature, the inartificial manner in which frequently they are framed,* and their disregard—often in entire unconsciousness—of existing enactments,† all tend to envelope our statutes in an uncertainty which an editor can more readily discover than remedy.

And now I dismiss to its fate, the work which has cost me so much labor and attention. In every respect, it has increased upon my hands, beyond my original design.

At first I contemplated only a corrected edition of the Revised Statutes. But the subsequent enactments were more voluminous than the Revised Statutes, and of, at least, equal importance; the two were so interwoven and connected with each other, and we had so long been in the habit of depending on a single publication for all our statute law of a general character, that I readily discovered how imperfect would be my labor if confined to my original plan. I therefore enlarged it to its present form, not without the hope that I should thereby render it more acceptable.

J. W. EDMONDS.

CHEONDEROGA ON LAKE GEORGE, *July*, 1863.

* An illustration of the inartificial manner in which our statutes are sometimes framed will be found in chap. 188 of the Laws of 1848.

It is entitled "An act to amend an act entitled 'An act in relation to firemen in the several cities and villages in this state, passed March 18, 1848.'" The first section amends that act, and then section second enacts: "The act entitled 'An act in relation to firemen in the several cities and villages of this state, passed March 18, 1848, is hereby repealed,'" thus amending and repealing an act in the same breath.

In the enactment of the first section an exemption from jury and militia duty is conferred on those who have served "for four, five or six years," and that, in the language of the section, "during and forever after such service."

† I found an act, passed in 1813 and repealed in 1819, was twice afterwards amended, once in 1827 and once in 1840.

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CONTAINED IN THESE VOLUMES

AND NOT INCLUDED IN THE

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GENERAL STATUTES

OF THE

STATE OF NEW YORK; &C.

PART I.

TERRITORY, CIVIL POLITY, AND INTERNAL ADMINISTRATION.

CHAPTER I.

State Territorial Jurisdiction.

CHAP. 8.

AN ACT to confirm the agreement entered into by the commissioners appointed by this state, and commissioners appointed by the state of New Jersey, to settle the boundary line between New York and New Jersey.

PASSED February 5, 1834.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

The agreement entered into between the commissioners appointed by this state, and the commissioners appointed by the state of New Jersey, to settle the boundary line between New York and New Jersey, in the words following, viz.:

Agreement made between the commissioners on the part of the state of New York, and the commissioners on the part of the state of New Jersey, relative to the boundary line between the two states. Agreement.

PART 1.

Agreement made and entered into by and between Benjamin F. Butler, Peter Augustus Jay and Henry Seymour, commissioners duly appointed on the part and behalf of the state of New York, in pursuance of an act of the legislature of the said state, entitled, "An act concerning the territorial limits and jurisdiction of the state of New York and the state of New Jersey," passed January 18th, 1833, of the one part, and Theodore Frelinghuysen, James Parker and Lucius Q. C. Elmer, commissioners duly appointed on the part and behalf of the state of New Jersey, in pursuance of an act of the legislature of the said state, entitled, "An act for the settlement of the territorial limits and jurisdiction between the states of New Jersey and New York," passed February 6th, 1833, of the other part.

ARTICLE I.

Boundary
line be-
tween the
two states.

The boundary line between the two states of New York and New Jersey, from a point in the middle of Hudson river opposite the point on the west shore thereof, in the forty-first degree of north latitude, as heretofore ascertained and marked to the main sea, shall be the middle of the said river, of the bay of New York, of the waters between Staten Island and New Jersey, and of Raritan bay, to the main sea, except as hereinafter otherwise particularly mentioned.

ARTICLE II.

Jurisdic-
tion of New
York.

The state of New York shall retain its present jurisdiction of and over Bedlow's and Ellis' islands, and shall also retain exclusive jurisdiction of and over the other islands lying in the waters above mentioned, and now under the jurisdiction of that state.

ARTICLE III.

1b.

The state of New York shall have and enjoy exclusive jurisdiction of and over all the waters of the bay of New York, and of and over all the waters of Hudson river lying west of Manhattan island and to the south of the mouth of Spuytenduyv creek, and of and over the lands covered by the said water to the low water mark on the westerly or New Jersey side thereof; subject to the following rights of property and jurisdiction of the state of New Jersey, that is to say:

New Jersey
right of
property.

1. The state of New Jersey shall have the exclusive right of property in and to the land under water lying west of the middle of the bay of New York and west of the middle of the part of the Hudson river which lies between Manhattan island and New Jersey.

Exclusive
jurisdiction

2. The state of New Jersey shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made, on the shore of the said state, and of and over all vessels aground on said shore, or fastened to any such wharf or dock; except that the said vessels shall be subject to the quarantine or health laws, and laws in relation to passen-

gers, of the state of New York, which now exist or which may hereafter be passed.

3. The state of New Jersey shall have the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters, provided that the navigation be not obstructed or hindered. Fisheries.

ARTICLE IV.

The state of New York shall have exclusive jurisdiction of and over the waters of the Kill Van Kull, between Staten Island and New Jersey, to the westernmost end of Shooter's Island, in respect to such quarantine laws and laws relating to passengers as now exist, or may hereafter be passed under the authority of that state, and for executing the same; and the said state shall also have exclusive jurisdiction, for the like purposes, of and over the waters of the Sound, from the westernmost end of Shooter's island to Woodbridge creek, as to all vessels bound to any port in the said state of New York. Jurisdiction over Kill Van Kull.

ARTICLE V.

The state of New Jersey shall have and enjoy exclusive jurisdiction of and over all the waters of the Sound between Staten Island and New Jersey, lying south of Woodbridge creek, and of and over all the waters of Baritan bay lying westward of a line drawn from the light house at Prince's bay to the mouth of Mattavan creek, subject to the following rights of property and of jurisdiction of the state of New York. Waters of the sound.

1. The state of New York shall have the exclusive right of property in and to the land under water, lying between the middle of the said waters and Staten Island.

2. The state of New York shall have the exclusive jurisdiction of and over the wharves, docks and improvements made and to be made, on the shore of Staten Island; and of and over all vessels aground on said shore, or fastened to any such wharf or dock, except that the said vessel shall be subject to the quarantine or health laws, and laws in relation to passengers of the state of New Jersey which now exist, or which may hereafter be passed. Docks on Staten Island.

3. The state of New York shall have the exclusive right of regulating the fisheries between the shore of Staten Island and the middle of the said waters, provided that the navigation of the said waters be not obstructed or hindered. Fisheries.

ARTICLE VI.

Criminal process issued under the authority of the state of New Jersey, against any person accused of an offence committed within that state; or committed on board of any vessel being under the exclusive jurisdiction of that state as aforesaid; or committed against the regulations made or to be made by that state, in relation to the fisheries mentioned in New Jersey criminal process.

PART I.

the third article; and also civil process issued under authority of the state of New Jersey against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any of the said waters within the exclusive jurisdiction of the state of New York, unless such person or property shall be on board a vessel aground upon, or fastened to the shore of the state of New York, or fastened to a wharf adjoining the shore, or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New York.

ARTICLE VII.

New York
criminal
process.

Criminal process issued under the authority of the state of New York, against any person accused of an offense committed within that state; or committed on board of a vessel being under the exclusive jurisdiction of that state, as aforesaid; or committed against the regulations of that state, or to be made by that state, in relation to the fisheries mentioned in the fifth article; and also civil process issued under the authority of the state of New York, against any person domiciled in that state, or against property taken out of that state to evade the laws thereof; may be served upon any of the said waters within the exclusive jurisdiction of the state of New-Jersey, unless such person or property shall be on board a vessel aground upon, or fastened to the shore of the state of New-Jersey, or fastened to a wharf adjoining thereto; or unless such person shall be under arrest, or such property shall be under seizure, by virtue of process or authority of the state of New-Jersey.

ARTICLE VIII.

Agreement
to become
binding.

This agreement shall become binding on the two states when confirmed by the Legislatures thereof respectively, and when approved by the Congress of the United States.

Date of
agreement.

Done in four parts (two of which are retained by the commissioners of New-York, to be delivered to the governor of that state, and the other two of which are retained by the commissioners of New-Jersey, to be delivered to the governor of that state,) at the city of New-York, this sixteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three, and of the independence of the United States, the fifty-eighth.

(Signed)

B. F. BUTLER,
PETER AUGUSTUS JAY,
HENRY SEYMOUR,

THEO. FRELINGHUYSEN
JAMES PARKER,
LUCIUS Q. C. ELMER."

is hereby ratified and confirmed on the part of the state of New York.

CHAP. 586.

AN ACT accepting the sovereignty and jurisdiction over a certain portion of territory of the commonwealth of Massachusetts ceded to the State of New York upon certain conditions by said commonwealth in 1853.

PASSED July 21, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Sovereignty and jurisdiction over that portion of the territory of the commonwealth of Massachusetts, known as the district of Boston corner, situate in the southwesterly corner of the said commonwealth of Massachusetts, and westerly of the southwest line of the town of Mount Washington, in the county of Berkshire, ceded to the State of New-York, upon certain conditions, by an act of the Legislature of the said commonwealth, passed in May, 1853, entitled "An act relating to the separation of the district of Boston corner from this commonwealth, and the cession of the same to the State of New-York," is hereby accepted by the State of New-York: this section, however, is not to take effect until the Congress of the United States shall consent to such cession and annexation.

Jurisdiction over Boston corner accepted.

§ 2. Until the proclamation, provided in the third section of the act of the Legislature of the said commonwealth, referred to in section one of this act, shall be issued, the courts of the said commonwealth of Massachusetts shall have authority to take and hold effectual civil and criminal jurisdiction in any cause or matter pending, or which shall have arisen prior to the issuing of the said proclamation.

Not to take effect until approved by Congress.

Until proclamation published, courts of Massachusetts have jurisdiction

§ 3. His excellency, the governor of this state, for the better defining the limits and extent of the territory mentioned in this act, shall appoint a suitable person to act in conjunction with proper authorities of the commonwealth of Massachusetts, who shall cause an accurate survey and map to be made of the said territory, and shall cause sufficient monuments to be erected in and along the eastern boundary line of said territory, and shall cause the said map and survey to be duly authenticated and filed in the office of the secretary of this state, as record evidence of the extent and limits of such territory.

Governor to appoint a surveyor.

Maps and survey to be filed in the office of secretary of state.

CHAPTER II.**Civil Divisions.****CHAP. 241.**

AN ACT to divide the State into judicial districts

PASSED May 8, 18

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The state is hereby divided into eight judicial districts pursuant to the provisions of the fourth section of the fourth article of the constitution, which districts shall be arranged as follows:

- First.** The first judicial district shall consist of the city and county of New York:
- Second.** The second judicial district shall consist of the counties Richmond, Suffolk, Queens, Kings, Westchester, Orange, Rockland, Putnam and Dutchess:
- Third.** The third judicial district shall consist of the counties Columbia, Sullivan, Ulster, Greene, Albany, Schoharie and Rensselaer:
- Fourth.** The fourth judicial district shall consist of the counties Warren, Saratoga, Washington, Essex, Franklin, St. Lawrence, Clinton, Montgomery, Hamilton, Fulton and Schenectady:
- Fifth.** The fifth judicial district shall consist of the counties Onondaga, Oneida, Oswego, Herkimer, Jefferson and Lewis:
- Sixth.** The sixth judicial district shall consist of the counties Otsego, Delaware, Madison, Chenango, Broome, Tioga, Chemung, Tompkins and Cortland:
- Seventh.** The seventh judicial district shall consist of the counties Livingston, Wayne, Seneca, Yates, Ontario, Steuben, Morris and Cayuga:
- Eighth.** The eighth judicial district shall consist of the counties Erie, Chautauque, Cattaraugus, Orleans, Niagara, Genesee, Allegany and Wyoming.

20 N. Y., 452.

CHAP. 337.

AN ACT for the apportionment of the members of the Assembly of this state.

PASSED April 13, 185

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Members of Assembly.

§ 1. The number of members of the Assembly of this state hereafter to be chosen in the several counties thereof shall be as follows:

- In the county of Albany, four.
- In the county of Allegany, two.
- In the county of Broome, one.
- In the county of Cattaraugus, two.
- In the county of Cayuga, two.
- In the county of Chautauque, two.
- In the county of Chemung, one.
- In the county of Chenango, two.
- In the county of Clinton, one.
- In the county of Columbia, two.
- In the county of Cortland, one.
- In the county of Delaware, two.
- In the county of Dutchess, two.
- In the county of Erie, four.
- In the county of Essex, one.
- In the county of Franklin, one.
- In the counties of Fulton and Hamilton, one.
- In the county of Genesee, one.
- In the county of Greene, one.
- In the county of Herkimer, two.
- In the county of Jefferson, three.
- In the county of Kings, seven.
- In the county of Lewis, one.
- In the county of Livingston, two.
- In the county of Madison, two.
- In the county of Monroe, three.
- In the county of Montgomery, one.
- In the city and county of New-York, seventeen.
- In the county of Niagara, two.
- In the county of Oneida, four.
- In the county of Onondaga, three.
- In the county of Ontario, two.
- In the county of Orange, two.
- In the county of Orleans, one.
- In the county of Oswego, three.
- In the county of Otsego, two.
- In the county of Putnam, one.
- In the county of Queens, two.
- In the county of Rensselaer, three.
- In the county of Richmond, one.
- In the county of Rockland, one.
- In the county of St. Lawrence, three.
- In the county of Saratoga, two.
- In the county of Schenectady, one.
- In the county of Schoharie, one.
- In the county of Schuyler, one.
- In the county of Seneca, one.
- In the county of Steuben, three.
- In the county of Suffolk, two.
- In the county of Sullivan, one.
- In the county of Tioga, one.

PART I

In the county of Tompkins, one.

In the county of Ulster, three.

In the county of Warren, one.

In the county of Washington, two.

In the county of Wayne, two.

In the county of Westchester, three.

In the county of Wyoming, one.

In the county of Yates, one.

Duty of
supervisors

§ 2. The several boards of supervisors in each of the aforesaid counties, which are entitled to more than one member of assembly, shall assemble on the third Tuesday of June next, at the place where their next annual meeting is to be held, and divide their respective counties into assembly districts, equal to the number of members of assembly to which such counties are now severally entitled, and shall cause to be filed in the office of the secretary of state, and the clerks of their respective counties a description of such assembly districts, specifying the number of each district and the population thereof.

CHAP. 339.

AN ACT to organize the Senate Districts of the State.

PASSED April 13, 1857.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Senate
districts.

SECTION 1. The Senate Districts of this State, from and after the passage of this act, shall consist as follows:

1. The first Senate District shall consist of the counties of Suffolk, Queens and Richmond.

2. The second Senate District shall consist of the first, second, third, fourth, fifth, seventh, eleventh, thirteenth and nineteenth wards of the city of Brooklyn in the county of Kings.

3. The third Senate District shall consist of the sixth, eighth, ninth, tenth, twelfth, fourteenth, fifteenth, sixteenth, seventeenth and eighteenth wards of the city of Brooklyn, and the county towns of the county of Kings.

4. The fourth senate district shall consist of the first, second, third, fourth, fifth, sixth, seventh, eighth and fourteenth wards of the city of New-York.

5. The fifth senate district shall consist of the tenth, eleventh, thirteenth and seventeenth wards of the city of New-York.

6. The sixth senate district shall consist of the ninth, fifteenth, sixteenth and eighteenth wards of the city of New-York.

7. The seventh senate district shall consist of the twelfth, nineteenth, twentieth, twenty-first and twenty-second wards of the city of New-York.

5. The eighth senate district shall consist of the counties of Westchester, Putnam and Rockland.
9. The ninth senate district shall consist of the counties of Orange and Sullivan.
10. The tenth senate district shall consist of the counties of Ulster and Greene.
11. The eleventh senate district shall consist of the counties of Dutchess and Columbia.
12. The twelfth senate district shall consist of the counties of Rensselaer and Washington.
13. The thirteenth senate district shall consist of the county of Albany.
14. The fourteenth senate district shall consist of the counties of Delaware, Schoharie and Schenectady.
15. The fifteenth senate district shall consist of the counties of Montgomery, Fulton, Saratoga and Hamilton.
16. The sixteenth senate district shall consist of the counties of Warren, Essex and Clinton.
17. The seventeenth senate district shall consist of the counties of St. Lawrence and Franklin.
18. The eighteenth senate district shall consist of the counties of Jefferson and Lewis.
19. The nineteenth senate district shall consist of the county of Oneida.
20. The twentieth senate district shall consist of the counties of Herkimer and Otsego.
21. The twenty-first senate district shall consist of the county of Oswego.
22. The twenty-second senate district shall consist of the county of Onondaga.
23. The twenty-third senate district shall consist of the counties of Madison, Chenango and Cortland.
24. The twenty-fourth senate district shall consist of the counties of Tompkins, Tioga and Broome.
25. The twenty-fifth senate district shall consist of the counties of Wayne and Cayuga.
26. The twenty-sixth senate district shall consist of the counties of Ontario, Yates and Seneca.
27. The twenty-seventh senate district shall consist of the counties of Chemung, Schuyler and Steuben.
28. The twenty-eighth senate district shall consist of the county of Monroe.
29. The twenty-ninth senate district shall consist of the counties of Niagara, Orleans and Genesee.
30. The thirtieth senate district shall consist of the counties of Wyoming, Livingston and Allegany.
31. The thirty-first senate district shall consist of the county of Erie.
32. The thirty-second senate district shall consist of the counties of Chautauque and Cattaraugus.

CHAP. 454.

AN ACT dividing the State into Congressional Districts.

PASSED April 23, 1862.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. For the election of representatives in congress of the United States, this state shall be and is hereby divided into thirty-one districts, namely:

The counties of Suffolk, Queens and Richmond shall compose the first district.

The sixth, eighth, ninth, tenth, twelfth, fourteenth, sixteenth, seventeenth and eighteenth wards of the city of Brooklyn, and the towns of Flatbush, Flatlands, Gravesend, New Lots and New Utrecht, in the county of Kings, shall compose the second district.

The first, second, third, fourth, fifth, seventh, eleventh, thirteenth, fifteenth and nineteenth wards of the city of Brooklyn, in the county of Kings, shall compose the third district.

The first, second, third, fourth, fifth, sixth and eighth wards of the city and county of New York, and Governor's Island, shall compose the fourth district.

The seventh, tenth, thirteenth and fourteenth wards of the city and county of New York, shall compose the fifth district.

The ninth, fifteenth and sixteenth wards of the city and county of New York, shall compose the sixth district.

The eleventh and seventeenth wards of the city and county of New York, shall compose the seventh district.

The eighteenth, twentieth and twenty-first wards of the city and county of New York, shall compose the eighth district.

The twelfth, nineteenth and twenty-second wards of the city and county of New York, and Blackwell's, Ward and Randall's Islands, shall compose the ninth district.

The counties of Westchester, Rockland and Putnam shall compose the tenth district.

The counties of Orange and Sullivan shall compose the eleventh district.

The counties of Dutchess and Columbia shall compose the twelfth district.

The counties of Ulster and Greene shall compose the thirteenth district.

The counties of Albany and Schoharie shall compose the fourteenth district.

The counties of Rensselaer and Washington shall compose the fifteenth district.

The counties of Warren, Essex and Clinton shall compose the sixteenth district.

The counties of St. Lawrence and Franklin shall compose the seventeenth district.

The counties of Fulton, Hamilton, Montgomery, Saratoga and Schenectady shall compose the eighteenth district.

The counties of Delaware, Otsego and Chenango shall compose the nineteenth district.

The counties of Jefferson, Lewis and Herkimer shall compose the twentieth district.

The county of Oneida shall compose the twenty-first district.

The counties of Madison and Oswego shall compose the twenty-second district.

The counties of Onondaga and Cortland shall compose the twenty-third district.

The counties of Cayuga, Wayne and Seneca shall compose the twenty-fourth district.

The counties of Ontario, Livingston and Yates shall compose the twenty-fifth district.

The counties of Tioga, Tompkins, Broome and Schuyler shall compose the twenty-sixth district.

The counties of Chemung, Steuben and Allegany shall compose the twenty-seventh district.

The counties of Monroe and Orleans shall compose the twenty-eighth district.

The counties of Genesee, Niagara and Wyoming shall compose the twenty-ninth district.

The county of Erie shall compose the thirtieth district.

The counties of Chautauqua and Cattaraugus shall compose the thirty-first district.

CHAPTER III.

Census.

CHAP. 140.

AN ACT relative to the Census or Enumeration of the Inhabitants of the State.

PASSED May 7, 1845.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. An enumeration of the inhabitants of this State is to be taken at the end of every tenth year after the year one thousand eight hundred and twenty-five.

Census
when to be
taken.

PART I.
Blank re-
turns to be
printed.

§ 2. The secretary of state shall, in every such tenth year cause uniform blank returns and abstracts in conformity to the forms and provisions herein contained, together with copies of this act, to be printed, for the purpose of taking such enumeration and obtaining other statistical information.

To be sent
to county
clerks.

§ 3. The secretary of state shall, on or before the first day of June, in such every tenth year, transmit in such manner as he may think proper, to each of the county clerks, twice as many of such blank returns and copies of this act as there are election districts in their respective counties.

Marshal for
each elec-
tion district
to be ap-
pointed.

§ 4. The common council in each of the cities, and the supervisor, town clerk, and town superintendent of common schools in each of the towns in this state, shall respectively convene at some convenient place in each of such cities and towns, on or before the first Monday in July in every such tenth year, and shall appoint a marshal in and for each election district of the state, as heretofore provided in the third section of this act, whose duty it shall be to enumerate the inhabitants therein, and to perform the other duties prescribed by this act. A certificate of such appointment, under the hands of the clerk of the common council, and of the supervisor, town clerk and town superintendent aforesaid, shall be made, in which certificate the boundaries of the district assigned to the person so appointed shall be clearly and specifically described.

To be fur-
nished with
blank re-
turns.

§ 5. It shall be the duty of each county clerk, on or before the fifteenth day of July in every such tenth year, to forward to the town clerk of each of the towns in his county, and to the clerk of the common council in any of the cities, a sufficient number of the blank returns and copies of this act, so as aforesaid transmitted to him by the secretary of state, to supply each marshal of such town or city, on demand, with duplicate sets.

Duty of
marshals.

§ 6. Immediately after receiving such blank returns and copies of this act, every such marshal shall proceed to enumerate, truly and accurately, the inhabitants residing in the election district for which he shall have been appointed, by making actual inquiry at every dwelling-house, or of the head of every family residing therein; and to obtain the statistical information required by this act, by such convenient means as may be in his power.

Form of
returns.

§ 7. Each marshal shall enter in the blank return received by him the particulars of the enumeration so made, and of the statistical information so obtained, in the following manner and form, viz.:

RETURN OF THE ENUMERATION OF THE INHABITANTS OF DISTRICT NO. _____
IN THE TOWN OR (WARD) OF _____
WITH THE OTHER STATISTICAL INFORMATION REQUIRED BY LAW TO BE OBTAINED IN SUCH DISTRICT.

1	The name of the head of each family.
2	Number of male persons in the family, including its head, if male.
3	No. of female persons in the same family, including its head, if female.
4	No. of male persons in the same family subject to militia duty.
5	No. of persons in the same family entitled to vote for all officers elective by the people.
6	No. of persons in the same family who are paupers.
7	No. of persons not naturalized in such family.
8	No. of persons of color in the same family not taxed.
9	No. of persons of color in the same family who are taxed.
10	No. of persons of color in the same family who are legal voters.
11	No. of married females in the same family under the age of 45 years.
12	No. of unmarried females in the same family between the ages of 16 and 45.
13	No. of unmarried females in the same family under 16 years of age.
14	No. of marriages in the same family during the year preceding.
15	Males. No. of births in the same family during the year preceding.
16	Females. No. of deaths in the same family during the year preceding.
17	No. of members of the same family born in the state of New York.
18	No. of members of the same family born in any of the New England states.
19	No. of members of the same family born in any of the other states in the Union.
20	No. of members of the same family born in Mexico or South America.
21	No. of members of the same family born in Great Britain, or its possessions.
22	No. of members of the same family born in France.
23	No. of members of the same family born in Germany.
24	No. of members of the same family born in other parts of Europe.
25	No. of children in the same family between the ages of 5 and 16 years.
26	No. of children in the same family attending common schools.
27	No. of children in the same family attending private or select unincorporated schools.
28	No. of children in the same family attending academies or incorporated seminaries of learning other than colleges.
29	No. of children in the same family attending colleges or universities.
30	No. of yards of filled cloth manufactured in the same family during preceding year.
31	No. of yards of flannel and other woollen cloth, not filled, manufactured in the same family during preceding year.
32	No. of yards of linen, cotton, or other thin cloth, manufactured in the same family during the preceding year.

AGRICULTURAL AND HORTICULTURAL STATISTICS.

33	Acres of Land.	No. of acres of improved land occupied by the same family.	
		No. of acres of barley under cultivation.	
34	Barley.	Quantity of barley raised therefrom during preceding year.	
		No. of acres of pease under cultivation.	
35	Pease.	No. of bushels raised.	
		No. of acres of beans.	
36	Beans.	Quantity raised.	
		No. of acres of buckwheat.	
37	Buck-wheat.	Quantity raised.	
		No. of acres of turnips.	
38	Turnips.	Quantity raised.	
		No. of acres of potatoes.	
39	Potatoes.	Quantity raised.	
		No. of acres of flax.	
40	Flax.	Quantity raised. (Pounds.)	
		No. of acres of wheat sown.	
41	Wheat.	No. of acres of wheat harvested.	
		Quantity of wheat raised.	
42	Corn.	No. of acres of corn sown.	
		Quantity harvested.	
43	Rye.	No. of acres of rye sown.	
		Quantity harvested.	
44	Oats.	No. of acres of oats sown.	
		Quantity harvested.	
45	Neat Cattle.	No. of neat cattle owned by the family.	
		Under one year old.	
		Over one year old.	
		No. of cows milked.	
		No. of pounds of butter made during preceding year.	
		No. of pounds of cheese made during preceding year.	
46	Horses.	No. of horses owned by said family.	
		No. of sheep owned by said family.	
47	Sheep.	Under one year old.	
		Over one year old.	
		No. of fleeces.	
		No. of pounds of wool.	
48	Hogs.	No. of hogs owned by said family.	

WHOLE NUMBER OF DEAF AND DUMB AND BLIND PERSONS, AND OF IDIOTS AND LUNATICS; DISTINGUISHING SEXES, AGES AND CIRCUMSTANCES; ALSO THE NUMBER OF INDIANS IN EACH DISTRICT.

[illegible]

WHOLE NUMBER OF DEAF AND DUMB AND BLIND PERSONS, AND OF IDIOTS AND LUNATICS; DISTINGUISHING SEXES, AGES AND CIRCUMSTANCES; ALSO THE NUMBER OF INDIANS IN EACH DISTRICT.

CIRCUMSTANCES; ALSO THE NUMBER OF	DEAF AND DUMB.			BLIND.			IDIOTS.			LUNATICS.			INDIANS.	
	Males.	Females.	Circumstances.	Males.	Females.	Circumstances.	Males.	Females.	Circumstances.	Males.	Females.	Circumstances.	Males.	Females.
Under 12 years of age.	Under 12 years of age.	Under 12 years of age.	No. whose parents are unable to educate and support them.	Under eight years of age.	Under eight years of age.	Under eight years of age.	Under twenty-one years.	Under twenty-one.	Under twenty-one.	Under twenty-one.	Under twenty-one.	Under twenty-one.	Under twenty-one.	Under twenty-one.
Over 12 and under 25.	Over 12 and under 25.	Over 12 and under 25.	No. whose parents are of sufficient ability to educate and support them.	Between eight and twenty-five.	Between eight and twenty-five.	Between eight and twenty-five.	Above twenty-one years.	Under twenty-one.	Above twenty-one.	No. supported by charity.	Whole number of idiots.	Over twenty-one.	Over twenty-one.	Over twenty-one.
			Total number of deaf and dumb persons of all ages.											
			No. whose parents are unable to educate and support them.											
			No. whose parents are of sufficient ability to educate and support them.											
			Total number of blind of all ages.											

COLLEGES, ACADEMIES, COMMON SCHOOLS AND SEMINARIES OF LEARNING, AND THE COST OF ALL BUILDINGS ERECTED FOR EDUCATIONAL PURPOSES, AND OF THE REAL ESTATE BELONGING THERETO, AND OF ALL IMPROVEMENTS, EXCEPT ORDINARY REPAIRS.

Colleges.	Universities.	Academies.	Female Seminaries.	Other incorporated institutions of learning.	Normal Schools.	Common Schools.	Private and Select Schools.
No. of colleges.	No. of universities.	No. of academies.	No. female seminaries.	No. of other incorporated institutions of learning.	No. of normal schools.	No. of common schools.	No. of private and select schools.
Cost of colleges (buildings).	Cost of universities (buildings).	Cost of academies (buildings).	Cost of female seminaries (buildings).	Cost of other incorporated institutions of learning (buildings).	Cost of normal schools (buildings).	Cost of common schools (buildings).	Cost of private and select schools (buildings).
Cost of other improvements.	Cost of other improvements.	Cost of other improvements.	Cost of other improvements.	Cost of other improvements.	Cost of other improvements.	Cost of other improvements.	Cost of other improvements.
Cost of real estate.	Cost of real estate.	Cost of real estate.	Cost of real estate.	Cost of real estate.	Cost of real estate.	Cost of real estate.	Cost of real estate.
No. of children attending.							

PART I.

HOTELS, STORES, TRADES AND PROFESSION.	No. of physicians and surgeons.
	Total amount of salaries or compensation payable to clergymen of all denominations, for the year, including perquisites and use of real estate by them.
	No. of clergymen.
	No. of attorneys.
	No. of mechanics.
	No. of manufacturers.
	No. of merchants.
	No. of farmers and agriculturists.
	No. of grocers.
	No. of retail stores.
	No. of wholesale stores.
	No. of inns and taverns.

Persons to be enumerated.

§ 8. Every person whose usual place of abode shall be in any family, on the first day of July in every such tenth year, shall be returned as of such family; and every person casually absent at the time of taking the enumeration, as belonging to that place in which he usually resides.

Returns how verified.

§ 9. The return so made out shall be certified by each marshal taking the enumeration to be true and accurate to the best of his knowledge and belief; which certificate shall be subscribed and sworn to by him before any officer authorized to administer oaths, who shall certify such attestation, without charging any fee therefor.

Copy to be delivered to county clerk.

§ 10. Each marshal shall, on or before the first day of September in every such tenth year, cause the returns so certified with a duplicate copy thereof, to be delivered to the town superintendent of common schools of the town in which such marshal shall have been appointed, or where no such officer exists, to the supervisor of the town, or alderman of the ward in cities, whose duty it shall be within ten days thereafter to make and transmit to the county clerk an abstract thereof, subscribed and certified by him, containing the aggregate result or sum total of each of the particulars required to be stated in the several columns of the returns to be made by the marshals of his town, as herein before prescribed. The duplicate copy of such original return shall be deposited with said town superintendent, supervisor or alderman, for the inspection at all proper hours of any person interested, and shall be filed immediately after the first day of October there-

Duplicate copy where deposited.

after in the office of the town clerk, or clerk of the common council in the several cities of this state.

§ 11. Each county clerk shall, on receiving such certified statements of the enumeration and other statistical information, from the town superintendents of the several towns and wards in his county, and before the second Tuesday of October in every such tenth year, make and transmit to the secretary of state, by mail, an abstract thereof, subscribed and certified by him, containing the aggregate result or sum total in each town or ward in his county, specifying such towns and wards, of the particulars so as aforesaid required to be stated in the several columns of the returns to be made by the marshals as herein before prescribed; and also the aggregate result or sum total of each of the said particulars in his county.

Returns by county clerk to secretary of state.

§ 12. The secretary of state, after receiving such abstracts, shall prepare and report to the legislature, a general account of the enumeration, specifying the result thereof in the several towns, wards, cities and counties of the state, with a full recapitulation of the whole.

Secretary of state to report to legislature.

§ 13. The accounts for the services of the marshals in taking and returning such enumeration, and of the town superintendents and county clerks, in making out the abstracts thereof, shall be audited by the supervisors of the county where the services are performed, and in the city of New-York by the common council; and shall be assessed, collected and paid as part of the contingent expenses of such county or city.

Expenses how paid.

§ 14. Any person being the head of a family or member thereof, above the age of twenty-one years, who shall refuse to give to any marshal the information required by him relative to any of the particulars which such marshal is required to state in his returns concerning such family or person, or who shall wilfully give false information to such marshal concerning the same, shall forfeit and pay a penalty of fifty dollars, to be sued for and recovered, with costs of suit, by and in the name of the supervisor of their respective towns, and shall be paid over to the town superintendent, for the benefit of common schools of such towns.

Penalty for refusing to give information.

§ 15. It shall be the duty of the secretary of state to appoint suitable persons to take the enumeration of the Indians residing on the several reservations in this state, who shall in respect to such reservations perform all the duties required of marshals by this act; and shall also return the number of acres of land cultivated by such Indians, and such other statistics as it may be in their power to collect, and as the secretary of state in his instructions shall prescribe; for which service they shall be paid out of the treasury upon the warrant of the comptroller such suitable compensation, not exceeding two dollars per day, as the secretary shall certify to be just. All expenses incurred by the secretary of state in executing

Secretary of state to cause census of Indians to be taken.

PART I

Lithographic maps to be procured.

this act shall be paid by the treasurer upon the warrant of the comptroller.

§ 16. The secretary of state shall procure and cause to be bound for the use of the members of the legislature by the commencement of its next session, two hundred lithographic maps of this state, delineating the boundaries of the several towns, wards and counties, and specifying in each town, ward and county the whole population thereof, and also the population upon which the apportionment of senators and members of assembly is based, and also the population upon which the apportionment of members of congress is based.

Repeal.

§ 17. All previous acts relating to the taking of the state census are hereby repealed.

CHAP. 64.

AN ACT in relation to the census or enumeration of the inhabitants of this State.

PASSED March 12, 1855 ; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Census,

§ 1. An enumeration of the inhabitants of this state shall be taken during the present year, eighteen hundred and fifty-five, and during every tenth year hereafter.

Blanks.

§ 2. The secretary of state shall, as soon as may be after the passage of this act, and also in every tenth year hereafter, cause uniform blank returns and abstracts, together with copies of this act, to be printed, for the purpose of taking such enumeration and obtaining other statistical information.

Returns to be sent to county clerks.

§ 3. The secretary of state shall, on or before the first day of May next, and on or before the first day of May in every such tenth year hereafter, transmit, in such manner as he may think proper, to each of the county clerks, twice as many of such blank returns and as many copies of this act as there are election districts in their respective counties.

Marshals.

§ 4. On or before the first Monday of May next, and on or before the first Monday of May in every such tenth year hereafter, the secretary of state shall appoint one or more enumerators in and for each town and ward in this state, as the case may be, and who shall have been a resident of such ward or town at least one year before such appointment, whose duty it shall be to enumerate the inhabitants therein, and to perform the other duties prescribed by this act. A certificate of such appointment, under the hand of the secretary of state, shall be made, in which certificate the district assigned to the person so appointed shall be described ; and such certificate

shall be delivered to the person appointed, and which shall be evidence of the facts therein contained.

As amended, Laws of 1855, ch. 181.

§ 5. It shall be the duty of each county clerk, on or before the fifteenth day of May next, and on or before the fifteenth day of May in every such tenth year hereafter, to forward to the town clerk of each of the towns in his county, and to the clerk of the common council in each of the cities, a sufficient number of the blank returns and copies of this act, so as aforesaid transmitted to him by the secretary of state, to supply each enumerator of such town or city, on demand, with duplicate sets of said blank returns, and one copy of this act.

County clerk's duties.

§ 6. On the first Monday of June next, and on the first Monday of June in every such tenth year hereafter, every such enumerator shall proceed to enumerate, truly and accurately, the inhabitants residing in the ward, town or district for which he shall have been appointed, by making actual inquiry at every dwelling house, or of the head of every family residing therein, and to obtain the statistical information required by this act, by such convenient means as may be in his power.

Census, when to be taken.

§ 7. Each enumerator shall enter in the blank return received, the particulars of the enumeration so made, and of the statistical information so obtained, in the manner and form prescribed by the secretary of state.

Enumerator's duties.

§ 8. Every person whose usual place of abode shall be in any family on the first day of June next, and on the first day of June in every such tenth year hereafter, shall be returned as of such family; and every person casually absent at the time of taking the enumeration, as belonging to that place in which he usually resides.

Who to be enumerated.

§ 9. The returns so made out shall be certified, by each enumerator taking the enumeration, to be true and accurate to the best of his knowledge and belief, and shall state the number of pages of which it consists, which certificate shall be subscribed and sworn to by him before any officer authorized to administer oaths, who shall certify such attestation without charging any fee therefor.

Returns, how certified.

§ 10. Each enumerator shall, on or before the first day of July next, and on or before the first day of July in every such tenth year hereafter, cause the returns so certified, with a duplicate copy thereof carefully made and compared, and certified in the manner above specially provided, to be delivered to the county clerk of the county in which such marshal shall reside.

Returns to be made by first day of July.

§ 11. Each county clerk shall, immediately after receiving such certified statements of the enumeration, and other statistical information, and the duplicate copies of the same from the enumerators in the several towns or districts of his county, transmit to the secretary of state at Albany, by express, all the duplicate returns filed in his office, carefully boxed in

County clerk to transmit returns to secretary.

PART. I.

such a manner as to protect them; and if any enumerator shall neglect for five days after the first of July to make his return as aforesaid, the clerk of the county in which he shall reside, shall immediately proceed himself or dispatch a messenger to procure such return and duplicate, and the expense thereof shall be deducted from the account of such enumerator, by the board of supervisors of the county in which he may reside, if they shall think proper.

Secretary's
report.

§ 12. The secretary of state, after receiving such duplicate returns, shall prepare and report to the legislature a general account of the enumeration, specifying the result thereof in the several towns, wards, cities and counties of the state, with a full recapitulation of the whole.

Sec. 13 repealed by Laws of 1865, ch. 34. Post, vol. 6, p. 439.

Vacancies.

§ 14. In case of the inability or neglect of any enumerator appointed under or by virtue of this act to perform his duties, the secretary of state shall have full power, and it shall be his duty forthwith, to appoint another marshal in his stead.

As amended, Laws of 1855, ch. 181.

Penalty for
refusing to
give infor-
mation.

§ 15. Any person being the head of a family or member thereof, above the age of twenty-one years, who shall refuse to give to any enumerator the information required by him, relative to any of the particulars which such enumerator is required to state in his returns concerning such family or person, or who shall wilfully give false information to such enumerator concerning the same, shall forfeit and pay a penalty of fifty dollars, to be sued for and recovered with costs of suit, by and in the name of the supervisor of their respective towns, and shall be paid over to the town superintendent, for the benefit of the common schools of such town; except in the city of New-York, such suit and recovery shall be in the name of the mayor, aldermen and commonalty of the said city, and such penalty shall be paid over to the board of education for the benefit of common schools in said city.

Census of
Indians.

§ 16. It shall be the duty of the secretary of state to appoint suitable persons to take the enumeration of the Indians residing on the several reservations in this state, who shall, in respect to such reservations, perform all the duties of enumerator by this act, and shall also return the number of acres of land cultivated by such Indians, and such other statistics as it may be in their power to collect, and as the secretary of state, in his instructions shall prescribe; for which service they shall be paid out of the treasury, upon the warrant of the comp-

roller, such suitable compensation, not exceeding two dollars per day, as the secretary shall certify to be just. All expenses incurred by the secretary of state executing this act, shall be paid by the treasurer upon the warrant issued by the comptroller.

§ 17. It shall be the duty of each county clerk in this state, on or before the first day of January next, and the first day of January following such tenth year, to cause all the original returns filed in his office by the respective enumerators to be properly arranged by towns or wards and well bound up in one or more volumes, and carefully preserved among the records of his office; and if it has not already been done, he shall cause the returns of the United States census of eighteen hundred and fifty to be bound and preserved in like manner, and also the returns of any future census which the United States may hereafter take.

§ 18. The third chapter of the fifth title of the first part of the Revised Statutes, entitled "of the census or enumeration of the inhabitants of the state," and also chapter two hundred and thirty-nine of the Laws of eighteen hundred and fifty-four, entitled "An act to amend an act relative to the census or enumeration of the inhabitants of this state, passed May 7, 1845," are hereby repealed.

Chapter 140 of Laws of 1845 is not in terms repealed.

As amended by Laws of 1865, ch. 34. Post, vol. 6, p. 439.

CHAP. 181.

AN ACT to amend the act in relation to the Census or enumeration of the inhabitants of this State, passed March 12, 1855.

PASSED April 6, 1855; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 3. The compensation of enumerators shall be three dollars for each day necessarily and actually employed in making the enumeration and preparing the duplicate copy of the returns, which amount shall be audited by the supervisors of the county where such services are performed, and shall be assessed, collected and paid as a part of the contingent expenses of such county: but no such account shall be allowed unless the secretary of state shall have notified the clerk of the board of supervisors of the receipt and acceptance of the returns for which the compensation is claimed.

As amended by Laws of 1865, ch. 34. Post, vol. 6, p. 439.

CHAPTER V.**Public Civil Officers.****CHAP. 252.**

AN ACT relative to suits on behalf of the people of this state.

PASSED April 24, 1829.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

In whose
name suit
to be
brought.

§ 1. Where any one or more of the officers or agents of this state, either by his or their name or names, or by the name of his or their office or offices, are or shall be one of the parties to, or shall have executed or shall hereafter execute, any bond, covenant, contract, promise or agreement, in a matter concerning the people of this state, and in which the said people, and not such officer or agent, are or shall be the real party in interest, it shall and may be lawful to bring and maintain actions against the other party or parties to any such bond, covenant, contract, promise or agreement for the breach or non-performance of the same, in the name of the people of this state, in the same manner and with the like effect, as though the said people, instead of such officer or agent, had been named and described as a party to, and had executed such bond, covenant, contract, promise or agreement; but no such action shall be brought except by the attorney-general on behalf of the people.

CHAP. 58.

AN ACT requiring the Register of the City and County of New York to appoint a Deputy, and concerning Vacancies in said Office, and in the offices of Sheriffs and Clerks of Counties.

PASSED February 26, 1830.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Power of
governor to
fill vacan-
cies.

§ 2. The power vested in the governor of this state, by the forty-ninth section of title sixth of the fifth chapter of the first part of the Revised Statutes, in relation to vacancies in office, is hereby extended to all cases of vacancies in the offices therein specified, where the vacancy shall arise from the death of the incumbent; and the person so to be appointed, shall possess all the rights and powers, and be subject to all the duties and responsibilities, provided for and declared in said section.

§ 3. The preceding section shall not affect the power now vested by law in any sheriff or clerk of any county, to appoint under sheriffs or deputies, nor the powers of said under sheriffs or deputies, as now declared by law.

CHAP. 56.

AN ACT relative to the Comptroller's Office.

PASSED March 11, 1833.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. There shall be a second deputy comptroller, who shall be appointed in the same manner, and receive the same compensation, as is now provided by law in relation to the deputy comptroller. Second deputy.

§ 2. The deputy to be appointed pursuant to this act may perform any of the duties of the comptroller, in relation to the canals, except as a commissioner of the canal fund. His powers and duties.

§ 3. Such deputy shall be the clerk of the commissioners of the canal fund, and of the canal board. Clerk.

§ 4. All papers relating to the canals, whether pertaining exclusively to the duty of the comptroller, or to the duties of the commissioners of the canal fund, or of the canal board, shall be deposited in the comptroller's office. Papers.

§ 5. Copies of all such papers as are mentioned in the preceding section, and extracts from the minutes of the orders and proceedings of the commissioners of the canal fund, and of the canal board, certified by the comptroller, shall, in all cases, be evidence equally, and in the like manner as the originals. Copies.

§ 6. The salary of the deputy comptroller, to be appointed under this act, shall be a charge on, and be paid out of the canal fund. Salary.

§ 7. This act shall not be construed to authorise the employment of more than three clerks in the canal department of the comptroller's office, exclusive of the second deputy comptroller. Clerks.

CHAP. 23.

AN ACT providing for the settlement of the Accounts of the Treasurer of this State.

PASSED February 14, 1839.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any treasurer of this state shall die or resign during the year for which he was elected, or shall be succeeded Committee how to be appointed.

PART I.

Committees
how to be
governed.

at the expiration of his term by another person, duly elect to the same office, there may be appointed by concurrent resolution of the senate and assembly, a committee of three persons, one senator and two members of assembly, by the respective houses, to examine the accounts of such treasurer.

§ 3. The committees under this act shall be governed in their examination, certificate and report, by the provisions of title fourth, chapter eighth, of the first part of the Revised Statutes; and their certificate shall have the same effect as that of a committee on the treasurer's accounts under the said title.

CHAP. 259.

AN ACT imposing certain duties on the Surveyor-General.

PASSED May 11, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

To preserve
maps.

§ 1. The Surveyor-General is hereby authorized and required to collect and preserve all maps, plans, drawings, levels and surveys of every description made and to be made for the use of the state.

Companies
to furnish
maps.

§ 2. Every canal company and every railroad company in this state, to which the credit of the state may have been loaned or which may hereafter ask the aid of the state, shall, so far as may be in their power without making a new survey, furnish to the Surveyor-General copies of all maps, plans, drawings, levels and surveys of every description which may be made in connection with the construction of their canal or railroad.

CHAP. 220.

AN ACT to amend "An act imposing certain duties on the Surveyor-General, passed May 11, 1840."

PASSED April 11, 1842.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Room to be
prepared
for maps,
&c.

§ 1. The Surveyor-General, in addition to the duties prescribed in the act hereby amended, is authorized and directed to prepare the room adjoining the one now occupied by him in the new state hall, for the reception of such maps, plans, drawings, profiles and surveys as may be deposited with him by virtue of said act, and to make such fixtures therein as shall to him seem necessary, for their safe keeping. He is

hundred dollars each, instead of the per diem compensation and travelling fees now allowed by law.

3. To the canal commissioners, the sum of one thousand seven hundred dollars each, instead of the compensation now allowed by law, but nothing in this section contained shall affect the provisions of the fourteenth section of the act in relation to the public works and the officers connected therewith, passed May 12, 1847.

Of canal
commis-
sioners.

CHAP. 72.

AN ACT in relation to the office of state engineer and surveyor and the engineer department.

PASSED March 4, 1848; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The office of the state engineer and surveyor shall be kept in the new state hall, and the trustees thereof shall assign a suitable room or rooms therein for his use.

Omce.

§ 2. The state engineer and surveyor shall possess all the powers and discharge all the duties prescribed or required by law to be discharged by the surveyor-general prior to the first day of January, eighteen hundred and forty-eight, except his powers and duties as a commissioner of the canal fund.

Powers and
duties.

§ 3. The state engineer and surveyor shall have the general supervision of the engineer department, and shall perform all such duties in relation to the canals, as shall be required by the canal board, and shall visit and inspect the public works of this state as often as in his judgment it shall be necessary.

Supervision
of engineer
depart-
ment.

§ 4. The canal board is authorised to prescribe the duties of all such division, resident and assistant engineers as may be appointed pursuant to law.

Canal Board
to pre-
scribe du-
ties.

§ 5. The canal board may or may not, as it shall deem expedient, appoint during its pleasure not exceeding three division engineers, and the said board shall from time to time, appoint during its pleasure so many resident and assistant engineers as it shall deem necessary to be employed upon the public works of this state, and shall prescribe their compensation.

Division
engineers
may be ap-
pointed.

§ 6. Whenever any division, resident or assistant engineer shall be required by the canal board or the canal commissioners, or the acting commissioner on his division of the canals to perform any service in the line of his duty, he shall perform the same under the supervision of the state engineer and surveyor, and shall, under the sanction of the board or commissioner requiring the same, be authorised to employ

Services
under
whose su-
pervision
to be per-
formed.

PART I.

the requisite assistants and laborers to enable him to perform such service.

Oath of
office to be
taken.

§ 7. Every engineer, surveyor and assistant, before entering upon the duties of his office, shall take and subscribe the oath prescribed by the constitution, which oath shall be filed in the office of the secretary of state.

Frauds to
be investi-
gated.

§ 8. Whenever the state engineer and surveyor, or either of the canal commissioners, shall suspect any fraud or misconduct on the part of any engineer or assistant, in relation to the public works, it shall be his duty to report the same to the canal board, who may employ so many and such agents and engineers as they deem proper, to aid them in the investigation of the matter, and draw on the commissioner of the canal fund for their compensation, and the expense of such investigation.

Embank-
ments, ex-
cavations,
masonry,
&c. to be
ascertained
before con-
tracts are
made.

§ 9. Before any work is contracted upon any of the public works of this state, the quantity of embankment, excavation, masonry and all other structures, and the quantity and quality of all materials to be used in such work or structure, shall be ascertained and determined with all practicable accuracy, the work shall be done according to the plans and specifications exhibited at the letting of the contracts, and no alterations shall be made therein, except by the consent and approval of the commissioner in charge of the division upon which such work is located, nor unless such alteration or approval be reduced to writing, and signed by the person making the same.

Maps, plans
&c. to be
submitted.

§ 10. Before the canal commissioners shall contract for any work that may hereafter be authorized by law, the maps, plans, profiles and estimates thereof, shall be submitted to the state engineer and surveyor, who shall report to said commissioners his opinion thereon.

Salary of
state engi-
neer and
surveyor.

§ 11. There be allowed and paid to the state engineer and surveyor, an annual salary of two thousand and five hundred dollars, to be paid out of the canal fund quarterly, to commence on the first day of January, eighteen hundred and forty-eight, besides travel fees at the same rate as that allowed each of the canal commissioners, but such travel fees shall not exceed two hundred dollars in any one year.

Repeal.

§ 12. So much of all laws and parts of laws as conflict with the provisions of this act, or authorize the appointment or employment of any of the officers or persons whose appointment is hereinbefore provided for in any other manner, that according to the provisions of this act, are hereby repealed.

hundred dollars each, instead of the per diem compensation and travelling fees now allowed by law.

1. To the canal commissioners, the sum of one thousand seven hundred dollars each, instead of the compensation now allowed by law, but nothing in this section contained shall affect the provisions of the fourteenth section of the act in relation to the public works and the officers connected therewith, passed May 12, 1847.

Of canal
commissioners.

CHAP. 72.

AN ACT in relation to the office of state engineer and surveyor and the engineer department.

PASSED March 4, 1848; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The office of the state engineer and surveyor shall be kept in the new state hall, and the trustees thereof shall assign a suitable room or rooms therein for his use.

Office.

§ 2. The state engineer and surveyor shall possess all the powers and discharge all the duties prescribed or required by law to be discharged by the surveyor-general prior to the first day of January, eighteen hundred and forty-eight, except his powers and duties as a commissioner of the canal fund.

Powers and
duties.

§ 3. The state engineer and surveyor shall have the general supervision of the engineer department, and shall perform all such duties in relation to the canals, as shall be required by the canal board, and shall visit and inspect the public works of this state as often as in his judgment it shall be necessary.

Supervision
of engineer
depart-
ment.

§ 4. The canal board is authorised to prescribe the duties of all such division, resident and assistant engineers as may be appointed pursuant to law.

Canal Board
to pre-
scribe du-
ties.

§ 5. The canal board may or may not, as it shall deem expedient, appoint during its pleasure not exceeding three division engineers, and the said board shall from time to time, appoint during its pleasure so many resident and assistant engineers as it shall deem necessary to be employed upon the public works of this state, and shall prescribe their compensation.

Division
engineers
may be ap-
pointed.

§ 6. Whenever any division, resident or assistant engineer shall be required by the canal board or the canal commissioners, or the acting commissioner on his division of the canals to perform any service in the line of his duty, he shall perform the same under the supervision of the state engineer and surveyor, and shall, under the sanction of the board or commissioner requiring the same, be authorised to employ

Services
under
whose su-
pervision
to be per-
formed.

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Repeal.

§ 5. Section sixteenth of title fifth, chapter eighth, part I of the Revised Statutes, and all laws repugnant to or inconsistent with the provisions of this act are hereby repealed.

CHAP. 28.

AN ACT to provide for filling vacancies in office.

PASSED February 3, 1841

The People of the State of New York, represented in Sen and Assembly, do enact as follows :

Certain
vacancies
to be filled
by the
governor.

§ 1. Whenever vacancies shall exist or shall occur in any of the offices of this state, where no provision is now made by law for filling the same, the governor shall appoint some suitable person who may be eligible to the office so vacant or become vacant, to execute the duties thereof until the commencement of the political year next succeeding the first annual election after the happening of the vacancy at which such officer could be by law elected ; and the person so appointed to fill such vacancy shall possess all the rights and powers, and be subject to all the liabilities, duties and obligations of such officer as they are now or may hereafter be prescribed by law, but nothing in this act contained shall authorize the governor to fill the vacancy in the office of court judge and surrogate, or either of them, where provision made by law for the election of local officers under the nineteenth section of article six of the constitution of this state. Provided, however, that when a vacancy exists, or a resignation has actually been sent in, and accepted, to take effect at a future day, in the offices of secretary of state, comptroller, treasurer, attorney general, state engineer and surveyor, clerk of the court of appeals, or canal commissioner, while the legislature is in session, the two houses thereof, by joint ballot shall appoint a person to fill such vacancy, actual or prospective ; and any person appointed by the governor (except state prison inspector) may be removed from such office by concurrent resolution of both houses of the legislature. (If such removal both houses shall forthwith by joint ballot appoint a person to the office made vacant thereby.

Proviso.

As amended, Laws of 1849, ch. 46 ; 17 N. Y., 872 ; 14 N. Y., 56 ; B., 23, 424 ; 24 B., 606.

CHAP. 227.

AN ACT in relation to the Commissary General.

PASSED April 11, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The commissary general shall give security for the faithful execution of the duties of his office, by bond with not less than two sureties in the penal sum of twelve thousand dollars.

Bond to be given.

CHAP. 357.

AN ACT relative to the office of attorney general and district attorney ; and to defray certain contingent expenses of the state officers.

PASSED April 12, 1848 ; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. A certified copy of every certiorari to remove into the supreme court a conviction had before a court of special sessions, together with a certified copy of the affidavit upon which the writ is allowed, and of the return thereto, shall be served by the party prosecuting the writ upon the district attorney of the county in which the conviction to be reviewed was had with at least four days' notice of the argument thereof, and it shall be the duty of such district attorney to attend to the argument of the same, and perform such duties in relation thereto as have heretofore been performed by the attorney general ; for which service a reasonable compensation to be certified by one of the justices of the supreme court, shall be audited and allowed by the board of supervisors and paid out of the treasury of the county.

Copy of certiorari to remove conviction into sup. court how to be served.

§ 2. The attorney general shall be, and hereby is authorised to employ additional counsel in prosecuting and defending suits and proceedings in which the people are a party, or are interested, at any general or special term, or at chambers of the supreme court in any of the judicial districts of the state, whenever the discharge of other official duties shall prevent him attending in person.

Attorney general may employ additional counsel.

§ 3. A reasonable counsel fee to be certified by the governor for the services of such counsel as mentioned in the last preceding section, shall be allowed and paid out of the treasury.

Fee to be allowed.

Sect. 4 repealed by Laws of 1864, ch. 280.

CHAP. 197.

AN ACT to designate a state paper.

PASSED April 11, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Who to
designate
public
printer.

§ 1. The secretary of state, comptroller and treasurer shall enter into contract with the publisher or publishers of a daily newspaper published in the city of Albany, in which shall hereafter be published all legal and other notices, and all advertisements now required by law to be published in the state paper by any law of this state or which may be required hereafter to be published in such paper, at prices not exceeding the rates mentioned in the third section of this act, which paper shall be designated as "The state paper;" but this act shall not affect any notice or advertisement required by law to be published in the state paper, the publication of which shall have been commenced prior to the passage of this act.

19 N. Y., 424.

Bond.

§ 2. Within five days after such contract shall have been made, the proprietors of the paper designated as the state paper, as provided, shall execute a bond to the people of the State of New York, with good and sufficient sureties, to be approved by the comptroller of the state, in the penal sum of five thousand dollars, for the faithful performance of such printing and publishing; and the publication of such notices, in the paper herein designated, shall have the same effect when given in evidence as has heretofore been given by law to notices published in the state paper.

Legal
notices.

§ 3. For the publication of all such notices and advertisements, the proprietors of the paper designated by this act as the state paper shall be allowed to charge and collect for the first insertion thirty cents for every folio of one hundred words, and for each subsequent insertion twenty cents for every such folio, and no more; provided, however, that no charge shall be made for the insertion of any notices required to be published in proceedings before surrogates, where the surrogate shall certify that the property of the deceased is less than five thousand dollars in value.

Proviso.

§ 4. Section four of chapter twenty-four of the Laws of eighteen hundred and forty-six, and so much of all laws as conflict with the provisions of this act, are hereby repealed.

Repeal.

CHAP. 288.

AN ACT to amend an act passed December 16, 1847, entitled "An act regulating the salaries of certain officers of government."

PASSED April 15, 1854; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The first section of the act entitled "An act regulating the salaries of certain officers of government," passed December sixteen, eighteen hundred and forty-seven, is hereby amended so as to read: The attorney-general may also appoint a deputy, who shall receive for his services the sum of twelve hundred dollars annually; a messenger, who shall receive for his services the sum of two hundred and fifty dollars annually.

Deputy
attorney
general.

CHAP. 437.

AN ACT in relation to reports of state officers.

PASSED April 18, 1859; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The comptroller, secretary of state, treasurer, state engineer and surveyor, attorney-general, canal commissioners, auditor of canal department, commissioners of the canal fund, commissioners of the land office, canal appraisers, inspectors of state prisons, regents of the university, superintendent of banking department, superintendent of public instruction, adjutant-general, commissary-general, and all other state officers, or heads of departments, required by law to submit an annual report to the legislature of this state, are hereby required to complete their several annual reports for the previous fiscal year, ending on the thirtieth day of September of each year, on or before the tenth day of December succeeding, and cause the same, on or before that day, to be placed in the hands of the person having the contract to do the printing for the senate and assembly under and in pursuance of the provisions of section two, chapter twenty-four, of the Laws of eighteen hundred and forty-six.

Reports to
be comple-
ted by De-
cember 10,
and placed
in hands of
printer.

§ 2. The said printer so having the contract as aforesaid is hereby directed and required, when a report is placed in his hands in conformity to the first section of this act, to print and publish such reports, in the style they have heretofore been printed, on or before the first day of the meeting of the legislature in each year; and it shall be the duty of said

To be
printed by
first day of
session of
legislature.

PART I.

printer aforesaid, to distribute and deliver said reports for the use of the legislature, and others, as he is required to do by virtue of his contract, on or before the first day of the meeting of the legislature in each year, the printing required to be done under the provisions of this act shall hereafter be included in the sealed proposals for such printing.

When to
take effect.

§ 3. This act shall take effect upon the expiration of the present contract for the printing for the senate and assembly and public officers provided for in and by section two, chapter twenty-four of the Laws of 1846.

CHAP. 21.

AN ACT, providing for the distribution of Soldiers' Allotments.

PASSED March 6, 1862; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

State treasurer to receive money allotted and receipt for the same.

§ 1. It shall be the duty of the treasurer of this state to receive from the paymaster general of the United States army, or from the secretary of the treasury of the United States, such sum or sums as may have been or may hereafter be assigned by volunteers in the service of the United States for the benefit of their families or others, in conformity with orders of the war department and to give the necessary receipts therefor.

Treasurer to make a list of persons and transmit them to county treasurers.

§ 2. The treasurer of this state, as often as once in every three months shall cause to be made a list of all persons to whom moneys are assigned, classified by counties, and shall mail to the county treasurer of each county the list of assignees residing in such county.

County treasurers to give notice of list to assignees.

§ 3. It shall be the duty of the county treasurer immediately, on receiving the list from the treasurer of the state to give notice thereof to the assignees and to ascertain if it be their desire to receive the moneys assigned to them, through the county treasurers. In all cases where such is their desire, it shall be the duty of the county treasurers to procure a written request to that effect, which shall accompany their drafts upon the treasurer of the state, and no moneys shall be drawn from the treasurer of the state unless it be upon such draft and upon the written request of the said assignee, the identity of whom shall be duly certified by the supervisor or a justice of the peace of the town or ward where the assignee resides, but the request when once made shall remain in force until finally revoked in writing.

Moneys to be drawn on draft and written request of assignee.

County treasurer to keep record.

§ 4. County treasurers shall enter the names, rank, pay per month, amount to be reserved, name and address of assignees on a list prepared for that purpose, which shall be preserved

as a permanent record of his office and shall require the signature of the assignee or his or her order in writing, in receipting from time to time for the amount assigned.

§ 5. The comptroller shall draw his warrant upon the treasurer in favor of county treasurers upon their complying with the provisions of this act. All moneys uncalled for and remaining in the hands of county treasurers for the period of one year, shall be repaid by them to the treasurer of the state. The aggregate of the sums hereby authorized to be paid over to the county treasurers, is hereby appropriated payable as aforesaid and for the purposes named. No fee or charge shall be made or received by any officer under this act.

Comptroller to draw his warrant on treasurer.

CHAPTER VI.

Elections.

CHAP. 356.

AN ACT concerning the Election of Justices of the Peace.

PASSED May 4, 1829.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Justices of the peace shall hereafter be elected by the people of the several towns of this state, at the times and in the manner prescribed by the eleventh Chapter of the First Part of the Revised Statutes, for the election of supervisor and other town officers required to be elected by ballot.

When to be elected.
17 N. Y.,
873; 25 B.,
423.

§ 2. The clerk of every town meeting, at which an election for justice of the peace shall have been had, shall, within ten days thereafter, transmit to the clerk of his county, a certificate of the result of such election, under his hand, which shall be evidence of the facts therein certified.

Duty of town clerk.

§ 3. The persons so elected justices of the peace, shall enter upon the duties of their respective offices on the first day of January next succeeding their election; and in case more than one justice shall be elected in any town at the same election, their term of office shall be determined by lot, in the manner provided by law, before the commencement of such term.

Justices when to enter on their duties

CHAP. 289.

AN ACT concerning Town-Meetings.

PASSED April 20, 1830.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 2. At the close of the polls at any town-meeting, the canvassers may determine whether the canvass of the votes shall then be had, or postponed until the next day: if they

Canvass of the votes.

PART I

determine that the canvass shall then be commenced upon, the same may be continued after sundown; but it shall be had publicly at the place where the meeting was held, and the result shall be read by the clerk to the persons there assembled; and such reading shall be held notice of the election, to all persons whose names are on the poll list as voters: And no canvass heretofore had, shall be deemed illegal in consequence of its having been had after sundown.

CHAP. 290.

AN ACT to amend an Act entitled "An Act concerning the Election of Justices of the Peace," passed May 4th, 1829.

PASSED April 20, 1830.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Justices to
supply va-
cancies.

§ 1. Whenever one or more justices of the peace shall be elected in any town in this state, to supply a vacancy or vacancies at the time existing, or in any new town, such justice or justices may take the oath of office, and forthwith enter upon the duties thereof.

17 N.Y., 373; 25 B., 424.

Where
more than
one is
elected.

§ 2. In case more than one justice of the peace shall be elected in any town at the same election, their terms of office shall be determined by lot, within twelve days after their election, in the manner now provided by law.

CHAP. 270.

AN ACT relative to the election and classification of justices of the peace.

PASSED April 29, 1833.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Classifica-
tion.

§ 1. When two or more persons shall be elected to the office of justice of the peace at any annual town-meeting, the one of whom shall be an incumbent of the office for a term not then expired, such incumbent shall be deemed elected for the regular term of four years, which will commence on the first day of January next following such election.

Ballots how
to be writ-
ten.

§ 2. When at any such town-meeting, except the first election in a new town, two or more persons are to be elected to the office of justice of the peace, it shall be lawful for each

of the electors not voting for a person who may then be an incumbent of the office, to designate on his ballot the person intended for the regular term of four years, which will commence on the first day of January then next following, by the words, or words and figures, "Longest term," "four years," or "4 years;" and the persons having the greatest number of votes, without any reference to such designation, shall be deemed duly elected.

§ 3. The person elected and having the greatest number of such designations, shall be deemed elected for the regular term of four years.

§ 4. The presiding officer or officers at any annual town-meeting at which justices of the peace shall be elected, shall determine whether any, and what person, in pursuance of the foregoing sections, has been elected for the regular term of four years; which determination shall be made at the same time and with the like force and effect, as he or they may determine what persons are elected to the office of justice of the peace; and such determination shall be entered in the minutes of the proceedings of the meeting, and shall be publicly read, and shall be deemed notice of the result, in the same manner as is now provided by law in relation to the canvass.

Duty of
presiding
officers.

§ 5. Where no person shall be elected for the regular term of four years in pursuance of either of the preceding sections, the classes of all the persons elected to the office of justice of the peace, at any such annual town-meeting, shall be determined by lot within the time and in the manner now prescribed by law.

Determina-
tion by lot.

§ 6. Where one person shall have been elected for the regular term, in pursuance of the foregoing provisions, the other person or persons elected justices of the peace shall be deemed elected to fill the existing vacancy or vacancies; and in case of more than one existing vacancy, the classes of the persons elected to fill the same shall be determined by lot, within the time and in the manner now prescribed by law.

Vacancies.

§ 7. Whenever there shall have been two or more justices chosen at any annual town-meeting during the present year, one or more of whom shall be chosen to supply a vacancy, and one for the regular term, and the class to which such justice shall belong shall not have been determined by lot in the manner and within the time now prescribed by law, it shall be lawful for the supervisor or town clerk, as the case may be, at any time on or before the first day of July next, to give the required notice, and to proceed to such determination in the same manner as if the same had been done within the time now prescribed by law.

Duty of su-
pervisor
and town
clerk.

§ 8. This act shall take effect immediately on the passing thereof; and it shall be the duty of the secretary of state to cause the same to be published without delay in the state paper, and in such other manner as he shall deem expedient.

CHAP. 389.

AN ACT to preserve the purity of elections.

PASSED May 7, 1839.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

False swearing at town elections.

§ 1. If any person, challenged as unqualified to vote at any town meeting held pursuant to title two of chapter eleven of part one of the Revised Statutes, shall be guilty of wilful and corrupt false swearing or affirming, in taking any oath or affirmation prescribed by said title, such person shall be adjudged guilty of wilful and corrupt perjury.

Procuring it.

§ 2. Every person who shall wilfully and corruptly procure any person to swear or affirm falsely as aforesaid, shall be adjudged guilty of subornation of perjury, and shall, upon conviction thereof, suffer the punishment directed by law in cases of wilful and corrupt perjury.

Bribery, menace, &c. at town elections.

§ 3. If any person shall, by bribery, menace, or other corrupt means or device whatsoever, either directly or indirectly, attempt to influence any elector of this state in giving his vote or ballot, or to deter him from giving the same, or disturb or hinder him in the free exercise of the right of suffrage at any town meeting within this state held pursuant to said title, and shall thereof be convicted, such person so offending and convicted, shall be adjudged guilty of a misdemeanor, and shall be punished by fine not to exceed five hundred dollars, or by imprisonment in the county jail, not to exceed one year, or by both such fine and imprisonment.

Changing vote of elector.

§ 4. No person shall fraudulently or deceitfully change a vote of any elector at any such town meeting, by which such elector shall be prevented from voting for such candidate as he intended; and any person offending against the provisions of this section, shall on conviction thereof, be punished as is in the next preceding section prescribed.

Elections in cities and villages.

§ 5. The provisions of the second, third and fourth sections of this act, shall be applicable to the charter elections of the several incorporated cities and villages within this state.

Non-residents voting, or voting in more than one town.

§ 6. Any person who shall vote in any town in which he does not reside, or who shall vote or offer to vote in more than one town at any annual town meeting, in the same year, shall, upon conviction, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding one hundred dollars, or by imprisonment, not exceeding six months, or by both such fine and imprisonment.

Oath to be taken at all elections on being challenged.

§ 7. If any person offering to vote at any general, town, city or charter election, shall be challenged in relation to his residence or right to vote at that election by an inspector, or by any other person entitled to vote at the same poll, one of

the inspectors shall tender to him the following oath: "You do swear [or affirm] that you will fully and truly answer all such questions as shall be put to you, touching your place of residence and qualifications as an elector;" and the inspectors, or one of them, shall then proceed to question the person challenged in relation to his then place of residence; how long he has resided in the town or ward where the vote is offered; what was the last place of his residence before he came into that town or ward, and also as to his citizenship, and whether a native or naturalized citizen, and if the latter, when, where and in what court or before what officer he was naturalized; whether he came into the town or ward for the purpose of voting at that election; how long he contemplates residing in the town or ward; and all such other questions as may tend to test his qualifications as a resident of the town or ward, citizenship and right to vote at that poll; any person guilty of wilful and corrupt false swearing or affirming in the answers to be given as aforesaid, shall be adjudged guilty of wilful and corrupt perjury.

Questions to persons challenged.

§ 8. If the person challenged as aforesaid shall refuse to answer fully any questions which shall be put to him as aforesaid, the inspectors shall reject his vote.

When vote to be rejected.

§ 9. The challenge mentioned in the first section of this act, shall be made before the person offering to vote has taken the oath now prescribed by law: and if, after having answered the questions put to him as aforesaid, the person offering to vote shall still persist to his right, he may be required to take the oath now prescribed by law.

When challenge to be made.

§ 10. The inspectors at every general, town, charter or city election, shall put down in writing the name of every person offering to vote, who shall on being challenged take the oath or affirmation mentioned in the seventh section of this act, or the oath or affirmation heretofore prescribed by law; and shall state whether both of the said oaths, or either of them, were taken by the elector; and a list or statement containing the facts aforesaid, in relation to all persons challenged and swearing or affirming, shall be certified by the inspectors, and returned with their return of the votes given at such election.

Name of every person swearing to be taken down.

Statement to be certified and returned.

Sections 11, 12, 13, 14, repealed; Laws of 1842, ch. 130.

§ 15. The town meetings of the several towns in the respective counties in this state, shall be held on some day between the first day of February and the first day of May in each year, to be appointed from time to time by the boards of supervisors of the several counties by resolution, so that the town meetings of every town in the county shall be held on the same day; each board of supervisors to fix the time for their respective counties at their pleasure within the period aforesaid, which resolution so fixing the time for said town meetings, when adopted, the said boards shall cause to be duly published, and the day so appointed shall remain the

Town meetings to be appointed in each county by the board of supervisors within certain days.

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Repeal.

§ 5. Section sixteenth of title fifth, chapter eighth, part first of the Revised Statutes, and all laws repugnant to or inconsistent with the provisions of this act are hereby repealed.

CHAP. 28.

AN ACT to provide for filling vacancies in office.

PASSED February 3, 1849.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Certain
vacancies
to be filled
by the
governor.

Provided.

§ 1. Whenever vacancies shall exist or shall occur in any of the offices of this state, where no provision is now made by law for filling the same, the governor shall appoint some suitable person who may be eligible to the office so vacant or to become vacant, to execute the duties thereof until the commencement of the political year next succeeding the first annual election after the happening of the vacancy at which such officer could be by law elected ; and the person so appointed to fill such vacancy shall possess all the rights and powers, and be subject to all the liabilities, duties and obligations of such officer as they are now or may hereafter be prescribed by law, but nothing in this act contained shall authorise the governor to fill the vacancy in the office of county judge and surrogate, or either of them, where provision is made by law for the election of local officers under the fifteenth section of article six of the constitution of this state :
Provided, however, that when a vacancy exists, or a resignation has actually been sent in, and accepted, to take effect at a future day, in the offices of secretary of state, comptroller, treasurer, attorney general, state engineer and surveyor, clerk of the court of appeals, or canal commissioner, while the legislature is in session, the two houses thereof, by joint ballot, shall appoint a person to fill such vacancy, actual or prospective ; and any person appointed by the governor (except state prison inspector) may be removed from such office by concurrent resolution of both houses of the legislature. On such removal both houses shall forthwith by joint ballot appoint a person to the office made vacant thereby.

As amended, Laws of 1849, ch. 46; 17 N. Y., 872; 14 N. Y., 56; 25 B., 23, 424; 24 B., 606.

CHAP. 240.

AN ACT to amend the act entitled "An act respecting elections other than for militia and town officers;" passed April 5, 1842.

PASSED May 8, 1847; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 15. No person shall be permitted to vote at any election, who previous thereto shall have been convicted of bribery or of any infamous crime, unless he shall have been pardoned and restored to all the rights of a citizen, or who shall make any bet or wager, or be directly or indirectly interested in any bet or wager depending upon the result of any election, at which such person may offer to vote.

Certain persons not to be permitted to vote.

§ 16. In case any inspector of election shall knowingly and wilfully permit or suffer any person to vote at any election, who is not entitled to vote thereat, the said inspector so offending, shall, on conviction thereof, be adjudged guilty of a misdemeanor, and shall be sentenced to pay a fine of five hundred dollars, and be imprisoned in the county jail for six months.

Penalty for permitting such persons to vote.

30 B., 596; 27 N. Y., 79.

§ 17. The inspectors of any election in addition to the other questions to be put to any person offering to vote, when challenged, under the act of the legislature of this state, passed April 5, 1842, entitled "An act respecting elections other than for militia and town officers," shall interrogate every such person as to his qualifications to vote under the present constitution.

Interrogations as to right to vote under present constitution.

See Laws of 1865, ch. 475; Post, vol. 6, p. 490; 13 N. Y., 357.

CHAP. 276.

AN ACT to provide for the election of certain judicial and other officers, and to fix their term of office.

PASSED May 12, 1847.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The first election of judges of the court of appeals, the justices of the supreme court, the county judges in the respective counties, (the city and county of New-York excepted,) the district attorneys of the respective counties, and all other judicial officers, whose election shall be provided for by this.

First election of judges of court of appeals.

CHAP. 197.

AN ACT to designate a state paper.

PASSED April 11, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Who to
designate
public
printer.

§ 1. The secretary of state, comptroller and treasurer shall enter into contract with the publisher or publishers of a daily newspaper published in the city of Albany, in which shall hereafter be published all legal and other notices, and all advertisements now required by law to be published in the state paper by any law of this state or which may be required hereafter to be published in such paper, at prices not exceeding the rates mentioned in the third section of this act, which paper shall be designated as "The state paper;" but this act shall not affect any notice or advertisement required by law to be published in the state paper, the publication of which shall have been commenced prior to the passage of this act.

19 N. Y., 424.

Bond.

§ 2. Within five days after such contract shall have been made, the proprietors of the paper designated as the state paper, as provided, shall execute a bond to the people of the State of New York, with good and sufficient sureties, to be approved by the comptroller of the state, in the penal sum of five thousand dollars, for the faithful performance of such printing and publishing; and the publication of such notices, in the paper herein designated, shall have the same effect when given in evidence as has heretofore been given by law to notices published in the state paper.

Legal
notices.

§ 3. For the publication of all such notices and advertisements, the proprietors of the paper designated by this act as the state paper shall be allowed to charge and collect for the first insertion thirty cents for every folio of one hundred words, and for each subsequent insertion twenty cents for every such folio, and no more; provided, however, that no charge shall be made for the insertion of any notices required to be published in proceedings before surrogates, where the surrogate shall certify that the property of the deceased is less than five thousand dollars in value.

Proviso.

Repeal.

§ 4. Section four of chapter twenty-four of the Laws of eighteen hundred and forty-six, and so much of all laws as conflict with the provisions of this act, are hereby repealed.

vide for the election of an officer other than the county judge, who shall perform the duties of the office of surrogate therein.

§ 9. Such resolution shall be immediately delivered by the clerk of the board of supervisors, to the county clerk, whose duty it shall be to file the same in the office of the clerk of such county, and keep the same as a part of the records thereof.

Resolution to be filed in county clerk's office.

§ 10. Within ten days after such resolution shall be filed in the office of any such county clerk, he shall transmit to the secretary of state, to be filed and kept in his office, a copy of such resolution, duly certified by him.

Also transmitted to secretary of state.

§ 11. The boards of supervisors in the several counties of this state, (except New-York,) shall meet at the office of the county clerk in their respective counties, on the twenty-fifth day of May instant. When so convened, they shall fix the salary of the county judge, and in the proper counties, of the separate officer elected to perform the duties of the office of surrogate. They shall also, at the same meeting, in those counties having a population exceeding forty thousand, determine whether the office of county judge and surrogate shall be separate, and if separate, they shall fix the salary of such separate officer. But this section shall not apply to counties having a population less than forty thousand, the board of supervisors whereof have already fixed the salary of the county judge; nor to those counties having a population exceeding forty thousand, the boards of supervisors whereof have already determined whether to have a separate officer as aforesaid, and have fixed the salary of said officer, if such separate officer shall have been determined upon, and shall have fixed the salary of the county judge; and the act of the board of supervisors, fixing the salary of a separate officer to perform the duties of the office of surrogate in any county in which said officer shall be elected by the constitution, and the provisions of this act is hereby confirmed, and shall be deemed as valid, as if the same had been fixed in pursuance of this act.

Board of supervisors to meet on 25th May, 1847.

To fix salaries.

In certain cases may separate office of county judge and surrogate. Not to apply to certain counties.

§ 12. The separate officers elected to perform the duties of the office of surrogate, and the local officers to discharge the duties of county judge and of surrogate, and elected at the election provided for in this act, shall enter upon their duties on the first Monday of July next, and hold their offices for the term of four years from the first day of January next; and after the expiration of the term of office of those first elected, the term of office of said officers shall be four years.

When county judges and surrogates to enter upon their duties.

§ 13. Whenever the office of county judge shall be vacant in a county, having a population exceeding forty thousand, the board of supervisors of that county, if there be a separate officer to perform the duties of the office of surrogate in said county, may resolve that there shall be no such officer in said county; and thereupon, the office of such officer shall be deemed vacant and abolished, from the time that the office of

When office of surrogate to be deemed vacant and abolished.

PART I.

printer aforesaid, to distribute and deliver said reports for the use of the legislature, and others, as he is required to do by virtue of his contract, on or before the first day of the meeting of the legislature in each year, the printing required to be done under the provisions of this act shall hereafter be included in the sealed proposals for such printing.

When to
take effect.

§ 3. This act shall take effect upon the expiration of the present contract for the printing for the senate and assembly and public officers provided for in and by section two, chapter twenty-four of the Laws of 1846.

CHAP. 21.

AN ACT, providing for the distribution of Soldiers' Allotments.

PASSED March 6, 1862; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

State treasurer to receive money allotted and receipt for the same.

§ 1. It shall be the duty of the treasurer of this state to receive from the paymaster general of the United States army, or from the secretary of the treasury of the United States, such sum or sums as may have been or may hereafter be assigned by volunteers in the service of the United States for the benefit of their families or others, in conformity with orders of the war department and to give the necessary receipts therefor.

Treasurer to make a list of persons and transmit them to county treasurers.

§ 2. The treasurer of this state, as often as once in every three months shall cause to be made a list of all persons to whom moneys are assigned, classified by counties, and shall mail to the county treasurer of each county the list of assignees residing in such county.

County treasurers to give notice of list to assignees.

§ 3. It shall be the duty of the county treasurer immediately, on receiving the list from the treasurer of the state to give notice thereof to the assignees and to ascertain if it be their desire to receive the moneys assigned to them, through the county treasurers. In all cases where such is their desire, it shall be the duty of the county treasurers to procure a written request to that effect, which shall accompany their drafts upon the treasurer of the state, and no moneys shall be drawn from the treasurer of the state unless it be upon such draft and upon the written request of the said assignee, the identity of whom shall be duly certified by the supervisor or a justice of the peace of the town or ward where the assignee resides, but the request when once made shall remain in force until finally revoked in writing.

Moneys to be drawn on draft and written request of assignee.

County treasurer to keep record.

§ 4. County treasurers shall enter the names, rank, pay per month, amount to be reserved, name and address of assignees on a list prepared for that purpose, which shall be preserved

as a permanent record of his office and shall require the signature of the assignee or his or her order in writing, in receipting from time to time for the amount assigned.

§ 5. The comptroller shall draw his warrant upon the treasurer in favor of county treasurers upon their complying with the provisions of this act. All moneys uncalled for and remaining in the hands of county treasurers for the period of one year, shall be repaid by them to the treasurer of the state. The aggregate of the sums hereby authorized to be paid over to the county treasurers, is hereby appropriated payable as aforesaid and for the purposes named. No fee or charge shall be made or received by any officer under this act.

Comptroller to draw his warrant on treasurer.

CHAPTER VI.

Elections.

CHAP. 356.

AN ACT concerning the Election of Justices of the Peace.

PASSED May 4, 1829.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Justices of the peace shall hereafter be elected by the people of the several towns of this state, at the times and in the manner prescribed by the eleventh Chapter of the First Part of the Revised Statutes, for the election of supervisor and other town officers required to be elected by ballot.

When to be elected.
17 N. Y.,
878; 25 B.,
422.

§ 2. The clerk of every town meeting, at which an election for justice of the peace shall have been had, shall, within ten days thereafter, transmit to the clerk of his county, a certificate of the result of such election, under his hand, which shall be evidence of the facts therein certified.

Duty of town clerk.

§ 3. The persons so elected justices of the peace, shall enter upon the duties of their respective offices on the first day of January next succeeding their election; and in case more than one justice shall be elected in any town at the same election, their term of office shall be determined by lot, in the manner provided by law, before the commencement of such term.

Justices when to enter on their duties

CHAP. 289.

AN ACT concerning Town-Meetings.

PASSED April 20, 1830.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 2. At the close of the polls at any town-meeting, the canvassers may determine whether the canvass of the votes shall then be had, or postponed until the next day: if they

Canvass of the votes.

PART I

determine that the canvass shall then be commenced upon, the same may be continued after sundown; but it shall be had publicly at the place where the meeting was held, and the result shall be read by the clerk to the persons there assembled; and such reading shall be held notice of the election, to all persons whose names are on the poll list as voters: And no canvass heretofore had, shall be deemed illegal in consequence of its having been had after sundown.

CHAP. 290.

AN ACT to amend an Act entitled "An Act concerning the Election of Justices of the Peace," passed May 4th, 1829.

PASSED April 20, 1830.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Justices to
supply va-
cancies.

§ 1. Whenever one or more justices of the peace shall be elected in any town in this state, to supply a vacancy or vacancies at the time existing, or in any new town, such justice or justices may take the oath of office, and forthwith enter upon the duties thereof.

17 N.Y., 373; 25 B., 424.

Where
more than
one is
elected.

§ 2. In case more than one justice of the peace shall be elected in any town at the same election, their terms of office shall be determined by lot, within twelve days after their election, in the manner now provided by law.

CHAP. 270.

AN ACT relative to the election and classification of justices of the peace.

PASSED April 29, 1833.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Classifica-
tion.

§ 1. When two or more persons shall be elected to the office of justice of the peace at any annual town-meeting, the one of whom shall be an incumbent of the office for a term not then expired, such incumbent shall be deemed elected for the regular term of four years, which will commence on the first day of January next following such election.

Ballots how
to be writ-
ten.

§ 2. When at any such town-meeting, except the first election in a new town, two or more persons are to be elected to the office of justice of the peace, it shall be lawful for each

if the electors not voting for a person who may then be an incumbent of the office, to designate on his ballot the person intended for the regular term of four years, which will commence on the first day of January then next following, by the words, or words and figures, "Longest term," "four years," or "4 years;" and the persons having the greatest number of votes, without any reference to such designation, shall be deemed duly elected.

§ 3. The person elected and having the greatest number of such designations, shall be deemed elected for the regular term of four years.

§ 4. The presiding officer or officers at any annual town-meeting at which justices of the peace shall be elected, shall determine whether any, and what person, in pursuance of the foregoing sections, has been elected for the regular term of four years; which determination shall be made at the same time and with the like force and effect, as he or they may determine what persons are elected to the office of justice of the peace; and such determination shall be entered in the minutes of the proceedings of the meeting, and shall be publicly read, and shall be deemed notice of the result, in the same manner as is now provided by law in relation to the canvass.

Duty of
presiding
officers.

§ 5. Where no person shall be elected for the regular term of four years in pursuance of either of the preceding sections, the classes of all the persons elected to the office of justice of the peace, at any such annual town-meeting, shall be determined by lot within the time and in the manner now prescribed by law.

Determina-
tion by lot.

§ 6. Where one person shall have been elected for the regular term, in pursuance of the foregoing provisions, the other person or persons elected justices of the peace shall be deemed elected to fill the existing vacancy or vacancies; and in case of more than one existing vacancy, the classes of the persons elected to fill the same shall be determined by lot, within the time and in the manner now prescribed by law.

Vacancies.

§ 7. Whenever there shall have been two or more justices chosen at any annual town-meeting during the present year, one or more of whom shall be chosen to supply a vacancy, and one for the regular term, and the class to which such justice shall belong shall not have been determined by lot in the manner and within the time now prescribed by law, it shall be lawful for the supervisor or town clerk, as the case may be, at any time on or before the first day of July next, to give the required notice, and to proceed to such determination in the same manner as if the same had been done within the time now prescribed by law.

Duty of su-
pervisor
and town
clerk.

§ 8. This act shall take effect immediately on the passing thereof; and it shall be the duty of the secretary of state to cause the same to be published without delay in the state paper, and in such other manner as he shall deem expedient.

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form; and he shall cause such number of copies thereof, with the necessary forms, tables and instructions, as shall be sufficient to supply the several officers upon whom duties are devolved by said laws, to be distributed to said officers, at the expense of the state.

CHAP. 380.

AN ACT for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage, and to prevent fraudulent voting.

PASSED April 15, 1859; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Board of registry to be appointed.

To meet annually three weeks before general election.

Oath to be administered.

List of voters to be made.

To sit two days if necessary.

Supervisors to appoint inspectors.

§ 1. The board of supervisors of the city and county of New-York shall annually appoint three inspectors for each election district in said city and county, to be known as the board of registry for the election district in which they are appointed, such inspectors to hold their offices for one year, and to be residents and voters in the district in which they are so appointed. The said inspectors so appointed for the city and county of New-York, and the inspectors of election in each of the other election districts in this state, shall meet annually, on Tuesday, three weeks preceding the general election, at nine o'clock, A. M., at the place designated for holding the poll of said election, and organize themselves as a board for the purposes of registering the names of the legal voters of such district, and for this purpose they shall appoint one of their number chairman of the board, who shall administer to the other inspectors the oath of office as prescribed by the constitution, and the same oath shall then be administered to the chairman by one of the other inspectors. The said board shall then proceed to make a list as hereinafter prescribed, of all persons qualified and entitled to vote at the ensuing election in the election district of which they are inspectors; said list, when completed, shall constitute and be known as the register of electors of said district. The said inspectors, at their first meeting on Tuesday, three weeks preceding their general election, shall have power, if necessary, to sit two days for the purpose of making said list, provided that at the annual election next prior to said meeting, the number of voters in the district of which they are inspectors exceeded four hundred. The said board of supervisors shall assemble on the third Monday of September in each year, at eleven o'clock in the forenoon of that day, at the usual place of meeting of said board, and proceed to ballot for the inspectors provided for in this section, for said

CHAP. VI.

Ballots,
what to
contain.

Inspectors.

city. Each ballot shall designate the number of the election district, and the ward in which the same is situated, and shall contain not more than three names for inspectors as aforesaid, for such district. The three persons receiving the greatest number of votes for each election district, shall be the inspectors of such election district for one year thereafter, and until others are appointed in their places. If, after three balloting for inspectors for any election district, three such inspectors shall not have been elected therefor, said board shall draw by lot from the six names having the largest number of votes, and not already elected as above provided, a sufficient number of names to make the number of such inspectors three for such election district. Six supervisors shall constitute a quorum for the transaction of the duties aforesaid, in the absence or refusal to attend of the others, or any of them.

Quorum.

§ 2. Said registers shall each contain a list of the persons so qualified and entitled to vote in said election district, alphabetically arranged according to their respective surnames, so as to show in one column the name at full length, and in another column, in cities and incorporated villages, the residence by the number of the dwelling, if there be a number, and the name of the street or other location of the dwelling place of each person. It shall be the duty of said inspectors to enter in said lists the names of all persons residing in their election district whose names appear on the poll list kept in said district at the last preceding general election, and in cities, the number of the dwelling and name of street or other location, if the same shall be known to or can be ascertained by such inspectors; and for this purpose said inspectors are authorized to take from the office in which they are filed, the poll lists, made and filed by the inspectors of such district at the general election held next prior to the making of such register. In case a new election district shall be formed, the said inspectors shall enter in the list the names of such persons entitled to vote in the new election district, whose names appear upon the poll list of the last general election kept in the district or districts from which said new election district is formed. The said inspectors shall complete, as far as practicable, the said register on the day of their meeting aforesaid, and shall make four copies thereof, and certify the register and each of the copies to be a true list of the voters in their district, so far as the same are known to them. Within two days thereafter, the said original list, together with the lists taken from the office as aforesaid, shall be filed by said inspectors in the office of the town clerk of the town in which such election district may be, or if such election district is in a city, in the office of the county clerk in said city, and one copy of said list shall be kept by each of said inspectors, and carefully preserved by him for their use on the

Register,
what to
contain.New
election.Original
list to be
filed.

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day or days hereinafter mentioned, for revision and correction of the same. One copy of said list shall, immediately after its completion, be posted in some conspicuous place in the room in which such meeting shall be held, and be accessible to any elector who may desire to examine the same or make copies thereof.

Time and
place of
meeting.

§ 3. The said boards shall meet on the Tuesday of the week preceding the day of the general election, in their respective election districts, at the place designated for holding the polls of election, for the purpose of revising, correcting and completing said lists; and for this purpose in cities they shall meet at eight o'clock in the morning, and remain in session until nine o'clock, P. M., of that day and the day following; and in other districts they shall meet at nine o'clock in the morning and remain in session until seven o'clock, P. M., of that day.

Proceed-
ings to be
open.

§ 4. The proceedings of said board shall be opened, and all persons residing and entitled to vote in said district, shall be entitled to be heard by said inspectors in relation to corrections or additions to said register. One of the lists, so kept by said inspectors as aforesaid, shall be used by them on the day or days for making corrections or additions for the purpose of completing the registry for such district.

Names of
non-resi-
dents to be
erased.

§ 5. It shall be the duty of said inspectors, at their meeting for revising and correcting said list, to erase therefrom the name of any person inserted therein who shall be proved by the oath of two legal voters of said district, to the satisfaction of said inspectors, to be a non-resident of said district or otherwise, not entitled to vote in said district, at the election

Elector may
require his
name to be
recorded.

then next to be held. Any elector residing in said district and entitled to vote therein, may appear before said board of inspectors and require his name to be recorded on said alphabetical list. Any person so requiring his name to be entered on said list shall make the same statement as to the street and number thereof and where he resides, required by the provisions of this act, of persons offering their votes at the election, and shall be subject to the same pains and penalties for refusing to give such information, or for falsely giving the same, and shall also be subject to challenge, either by the inspectors or either of them, or by any other elector whose name appears upon said alphabetical list, and the same oaths may be administered by the inspectors, as now provided against persons offering to vote at an election; and in case no challenge is made of any person requiring his name to be entered on said alphabetical list, or in case of challenge, if such person shall make oath that would entitle him to vote in case of challenge at an election, then the name of any such person shall be added to the alphabetical poll list of the last preceding year.

May be
challenged.

CHAP. VI.
Four copies
of list to
be made.

§ 6. After said list shall have been fully completed, the said inspectors shall, within three days thereafter, cause four copies of the same to be made, each of which shall be certified by them to be a correct list of the voters of their district, one of which shall be filed in the office of the town clerk of towns, and in cities, in the office of the county clerk of the county, and one of which copies shall be delivered to each of the said inspectors, except in the city and county of New-York; one of said copies shall be delivered to each of the inspectors of election of the district in which such registry is made. It shall be the duty of the said inspectors, so receiving such list, carefully to preserve the said list for their use on election day, and to designate one of their number, or one of the clerks, at the opening of the polls, to check the name of every voter voting in such district, whose name is on the register; no vote shall be received at any annual election in this state, unless the name of the person offering to vote be on the said registry made on the Tuesday or Wednesday preceding the election, unless the person offering to vote shall furnish to the board of inspectors his affidavit, giving his reasons for not appearing on the day for correcting the alphabetical list, and prove by the oath of a householder of the district in which he offers his vote that he knows such person to be an inhabitant of the district, and if in any city, giving the residence of such person within said district; and any person whose name is on the registry may be challenged, and the same oaths shall be put as are now prescribed by law.

Lists to be
preserved.

§ 7. The clerks at each poll, in addition to the duties now prescribed by law, shall enter on the poll list kept by them, in columns prepared for that purpose, opposite the name of each person voting, the same statement or minute as hereinbefore required of inspectors, in making the registry; but such entry is not to be made by them, if the registry contains correctly the name and residence of such voter, and in all cases the said clerk shall enter in a column, opposite the name of each person not registered, the words, "not registered." Every elector, at the time of offering his vote, shall truly state the street in which he resides; and if the house, lodging or tenement in which he resides is numbered, the number thereof; and the clerks of the polls shall truly enter in the appropriate column of the poll list, opposite the name of the elector, the street in which the elector resides, and the number, in case the house, lodging or tenement is numbered; and if the same is not numbered, then the clerks shall enter "not numbered" in the column of the poll list for entering the number; in case of refusal to make the statement as aforesaid, the vote of such elector shall not be received. Any person who shall wilfully make any false statement in relation thereto, shall be deemed guilty of a misdemeanor, and shall, upon conviction, be punished with a fine of fifty dol-

Clerks,
duties of.

PART I.

Poll list
and regis-
ter to be
attached
together.

lars, or by imprisonment in the county jail of the county, or the city prison of the city where such voter offers to vote, for a period of ten days, or by both such fine and imprisonment.

§ 8. After the canvass of the votes, the said poll list and said register so kept and checked as aforesaid, shall be attached together, and shall, on the following day, be filed in the town clerk's office, of the town in which said district shall be, and in case the same are in cities, in the county clerk's office, to be used by the inspectors in making the list of voters at the next general election.

Board may
appoint
clerk.

§ 9. The said board may, if necessary, on the day or days of the making and of the correction of such lists, appoint a clerk to assist them in the discharge of the duties required by this act; and the same oath shall be taken by such clerk as is required by law of clerks of the polls, or of elections.

Registers
to be open
to public
inspection.

§ 10. The registers shall, at all times, be open to public inspection, at the office of the authorities in which they shall be deposited, without charge.

Compensa-
tion.

§ 11. The members of the board of registration and their clerks, shall each receive the same compensation as is now allowed by law for inspectors of election, for each day actually employed in the making and completion of the registry, to be paid by them at the time and in the manner in which they are paid their other fees. The necessary blanks and instructions, and other incidental expenses, incurred in executing the provisions of this act, shall be provided and paid for in the manner now provided for the payment of incidental expenses of election of the like character.

Powers.

§ 12. The said board shall have and exercise the same powers in preserving order at their meetings, under this act, as are given to inspectors of election for preserving order on election days.

Inspectors
may admin-
ister oath.

§ 13. Any one of the inspectors may at any authorized meeting of the board administer the oath or oaths now required by law to test the qualification of electors, and may also administer, on the day of the making and completion of the list, to any elector of the district who may be offered as a witness to prove the qualification of any person claiming the right to be registered, the following oath: "You do swear, or affirm, that you are an elector of this election district; that you will fully and truly answer all such questions as shall be put to you touching the place of residence and other qualifications as an elector, of the person now claiming the right to be registered as a voter in this district." And whoever shall wilfully swear falsely upon such examination shall be deemed guilty of perjury.

Form of
oath.

False
swearing,
&c., to be
punished.

§ 14. Any person who shall cause his name to be registered in more than one election district, or who shall cause his name to be registered, knowing that he is not a qualified voter in the ward or district where said registry is made, or

who shall **falsely** personate any registered voter, and any person **causing, aiding or abetting** any person, in any manner, in either of said acts, shall be punished for each and every offense by imprisonment in the state prison for not less than one year. All false swearing before said board of registration shall be deemed wilful and corrupt perjury, and on conviction punished as such. If any member or officer of said board shall wilfully violate any of the provisions of this act, or be guilty of any fraud in the execution of the duties of his office, he shall be punished for each and every offence by imprisonment in the state prison for not less than one year.

§ 15. The same list required to be made and perfected at general elections shall in the same manner be made and perfected by the inspectors at all elections for charter officers in the several cities of this state, and the provisions and requirements of this act, so far as the same may be, are made applicable to such elections. Charter elections.

§ 16. The secretary of state shall cause this law to be printed, and a sufficient number of copies thereof sent to the county clerks of the several counties, to supply each of the officers named in this act, with a copy; and it shall be the duty of said county clerks immediately to transmit a copy of the same to each of the inspectors of election in this county. To be printed.

§ 17. This act shall take effect immediately.

CHAP. 480.

AN ACT to amend an act entitled "An Act respecting elections other than for militia and town officers," passed April fifth, eighteen hundred and forty-two.

PASSED April 17, 1860; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Section fourteen of article third of an act passed April fifth, eighteen hundred and forty-two, entitled "An act respecting elections other than for militia or town officers," as amended by section eighth of an act entitled "An act to amend an act entitled 'An act respecting elections other than for militia and town officers,' passed April fifth, eighteen hundred and forty-two," passed May eighth, eighteen hundred and forty-seven, is hereby amended so as to read as follows:

§ 14. The sheriff or clerk of the county of New-York, who shall receive a notice of an election, shall, without delay, deliver a copy of such notice to the board of supervisors of said county, and each supervisor of said county; he shall also cause a copy of such notice to be published once in each week until the election therein specified, in such newspapers in said county, not exceeding fifteen in number, having the largest circulation in the city and the county.

Duty of sheriff on receiving election notice.

CHAP. 307.

AN ACT authorizing and requiring inspectors of elections and other officers to take certain affidavits required by the registry law.

PASSED April 17, 1861.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Inspectors
may admin-
ister oaths
to voters.

§ 1. At any annual, state or city, election hereafter held in this state, any of the inspectors of such election may take the affidavit now required by law, to be furnished by persons offering to vote whose names are not on the register of electors; and such inspectors, or one of them, shall, upon request,

take and certify such affidavit without fee or reward. All other officers authorized by law to take affidavits shall, at all times, upon request, take and certify any affidavit so required to be furnished as aforesaid, without any charge therefor.

CHAPTER VII.

Legislature.

CHAP. 275.

AN ACT requiring the Publication of Notices in certain cases.

PASSED April 27, 1829.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. In all cases of applications to the legislature for the passage of laws authorising the construction of dams, in or across the streams and waters of this state, which are by law public highways, like notices shall be given and published as are required to be given and published by the third Title of the seventh Chapter of the First Part of the Revised Statutes, in cases of applications for acts of incorporation, and in the other cases therein specified.

Notices for constructing dams.

CHAP. 259.

AN ACT relative to the Printing of the Revised Statutes.

PASSED April 19, 1830.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Any person or persons residing in the state of New-York, may print and publish the whole or any part of the Revised Statutes of this state; but to entitle any copy of a law so published to be read in evidence, there shall be contained in the same book or pamphlet, a printed certificate of the secretary of state, or of two of the revisers, that such copy is a correct transcript of the text of the Revised Statutes as published, except such typographical errors in the original as may be corrected in such copy, and except such parts as shall have been altered by acts of the legislature; and that with respect to such parts, it conforms to the acts by which such alterations shall have been made.

Printing Revised Statutes.

§ 2. The editions to be printed under the provisions of this act, shall be paged in conformity to the first edition published under the authority of this state.

Paging of same.

CHAP. 140.

AN ACT for the preservation of legislative petitions and papers.

PASSED April 3, 1837.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Petitions
and papers
where to be
kept.

§ 1. All petitions and papers presented to the senate or assembly, shall be kept on file in each of the houses where they shall be originally presented; and copies of said petitions or papers, certified by the clerk of the house in which they shall be presented and filed, shall be prima facie evident thereof, wherever the same may be required within this state.

Title deeds.

§ 2. Either house may, by resolution, order title deeds or original documents accompanying any petition, to be delivered to the persons entitled thereto.

CHAP. 263.

AN ACT directing the secretary of state to furnish literary colleges with copies of the laws of the state of New-York, and of the documents of the senate and assembly.

PASSED April 29, 1839.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Duty of
secretary
of state.

§ 1. The secretary of state is required hereafter to furnish annually each of the literary incorporated colleges of this state with one copy of the Session Laws of this state; and also with one copy of the Documents of the Senate, and one copy of the Documents of the Assembly; and the state treasurer shall pay on the warrant of the comptroller the amount of the expenses of carrying into execution the directions of this act.

CHAP. 306.

AN ACT in relation to the publication of the Statutes of this State.

PASSED April 12, 1842.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Endorse-
ment not to
be pub-
lished.

§ 1. It shall not be necessary for the Secretary of State to furnish, nor for the State Printer to publish, a copy of the certificate, which the Secretary is required to endorse upon

every bill, of the day, month and year, when the same became a law.

§ 2. In the publication of every law, the Secretary of State shall mention when the same became a law, by inserting immediately under the title of the act the word "passed," and adding the month, day and year; and if the bill was certified by the presiding officers as having been passed by the assent of two-thirds of the members elected to each house, the secretary after stating when the bill became a law, shall add the words, "by a two-third vote."

Acts passed by two-third votes how distinguished.

§ 3. The addition of the words, "by a two-third vote," shall be presumptive evidence that the bill was certified by the presiding officers as having been passed by the assent of two-thirds of the members elected to each house; and the absence of such words shall be presumptive evidence that the bill was not so certified by the presiding officers.

Evidence thereof.

CHAP. 98.

AN ACT relative to the publication of the laws.

PASSED April 12, 1843.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Each volume of the laws hereafter printed for the state shall contain the certificate of the secretary of state to the effect that the said volume was printed under his direction.

Certificate to session laws.

§ 2. All laws passed by the legislature may be read in evidence from the volumes printed under the direction of the secretary of state, pursuant to the sixth section of the act entitled "An act to provide for the public printing," passed January 21, 1843, in the same manner and with the like effect as laws heretofore published by the state printer.

Session laws when evidence.

CHAP. 176.

AN ACT to furnish copies of the Statutes of this State to the several towns.

PASSED April 22, 1844.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever it shall be proved to the satisfaction of the secretary of state that the Revised Statutes and Session Laws passed since 1830, belonging to any town, or either of the volumes of such Statutes or Laws have been destroyed by fire, he shall procure and furnish to the said town the said

Laws destroyed by fire to be replaced.

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Statutes and Laws which may have been so destroyed, and the expenses thereof shall be paid by the treasurer, upon the warrant of the comptroller.

CHAP. 280.

AN ACT for the publication of the Session Laws in two newspapers in each county of this State.

PASSED May 14, 1845.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Laws of a
general
nature how
published.

§ 1. All laws of a general nature, which shall hereafter be passed by the legislature of this state, shall be published in at least two newspapers in each county of this state where there is or may be hereafter two newspapers published ; and in one newspaper in each county where but one newspaper is published or may be published.

Local laws.

§ 2. All laws of a local nature which shall hereafter be passed by the legislature of this state, shall be published in like manner in each of the counties interested in the same.

Supervisors
to appoint
printers.

§ 3. It shall be the duty of each board of supervisors in the several counties of this state, at their annual meeting, to appoint the printers for publishing the laws in their respective counties. The appointment shall be made in the following manner : each member of the board of supervisors shall designate by ballot one newspaper printed in the county to publish the laws, and the paper having the highest number of votes, and the paper having the next highest number of votes, shall be the papers designated for printing the laws. If there shall be but one paper printed in the county, then, in that case, the laws shall be published in that paper.

Duty of
secretary
of state.

§ 4. It shall be the duty of the secretary of state, to transmit in the order in which they are passed, to each treasurer of the several counties of this state, copies of all laws of a general nature, and such as relates to the local affairs thereof, for publication in the manner provided for in this act. It shall be the duty of each treasurer to cause the same to be published in the papers designated for publishing them.

Money to be
raised by
tax.

§ 5. It shall be duty of each board of supervisors, in the several counties of this state, in making out the assessment roll, to assess and levy on the taxable property of the county whose representative they are, such sums as shall be sufficient to defray the expenses of publishing the laws in the newspapers designated.

Allowance
for publish-
ing laws.

§ 6. Each of the publishers of such paper so designated as aforesaid, shall be entitled to receive for such publication of all the laws above specified, a sum not to exceed twenty cents for each folio.

As amended, Laws of 1858, ch. 331.

CHAP. 24.

AN ACT to provide for the public printing.

PASSED March 5, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The act entitled "An act to provide for the public printing," passed January 21, 1843, is hereby repealed. Repeal.

§ 2. The printing for the senate and assembly, for the comptroller, secretary of state, attorney and surveyor general, commissioners of the land office and canal fund, the banking department, and all other printing for any and every of the state officers, shall hereafter be done as follows: The comptroller and secretary of state shall give at least twenty days notice in two public newspapers published in each senate district in this state, that they will, on or before a day to be specified in said notice, receive sealed proposals for the printing provided to be done under this section, for two years, to be performed in the same style of execution as to type and paper, as that heretofore furnished; and that they will receive separate bids for the printing to be done for the senate, assembly, and public offices, or any portion of the printing to be done for the public offices; at the expiration of which time they shall open said proposals, and enter into a contract or contracts with such person or firm as shall make the lowest offer or bid to do such printing, and shall give security in a bond to the people of the state of New-York, to the satisfaction of the comptroller and secretary of state, for the faithful performance of his or their contract, which contract shall continue in force for two years from the time of making the same. Printing for senate and assembly and departments how to be done.

§ 3. The secretary of state and comptroller shall annually issue proposals for and receive bids as provided in section two of this act, for the printing and publishing of the session laws: and they shall, on receiving such proposals, enter into contract with the person or persons who shall make the lowest bid, and furnish sufficient security for the performance of the same: and the legislature may, by concurrent resolution, require an extra number of copies to be published, to be sold under the direction of the secretary of state at an advance not exceeding ten per cent on the original cost; and the distribution of the said laws to the several county clerks' offices shall be made within sixty days after the adjournment of the legislature. Proposals to be received for printing the Session Laws annually.

§ 4. All notices now required to be published in the state paper by any law of this state, or which may be so required hereafter to be published, shall, after the provisions of this law take effect, be published as follows: The state officers, Legal notices how and in what paper to be published.

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who by this act are authorized to make contracts for the other public printing in this act provided for, shall at the same time and in the same manner as is in this act before provided, issue proposals and receive sealed bids as hereinbefore provided, for the printing and publishing once in each week in a public newspaper to be printed in the city of Albany, of all notices now by law required to be published in the state paper, at so much for each and every folio consisting of one hundred words contained in any such notice. And the state officers aforesaid, shall, by a certificate to be made and signed by them and filed together with all the bids in the office of the comptroller and give and award the printing and publishing of all notices mentioned in this section to such person or persons as shall make the lowest bid for the same by the folio as aforesaid, and who shall execute good and sufficient security in a bond to the people of the state of New-York to the satisfaction of the said state officers for the faithful performance of such printing and publishing; and the publication of such notices by the person or persons in the newspaper to be published by him or them, shall have the same effect when given in evidence as has heretofore been given by law to notices published in the newspaper printed by the state printer. And the said person or persons to whom the printing of the notices provided for in this section shall be awarded, shall charge and receive from the person or persons ordering the publication thereof, the prices stipulated in their contract with the state officers aforesaid, and no more.

Copy of certificate to be published.

§ 5. The comptroller and secretary of state shall, immediately after making and filing their certificates, in the preceding section provided for, publish in the present state paper a copy of such certificate.

Guarantor by whom to be approved

§ 6. To every bid made under any of the provisions of this act, there shall be annexed a guaranty subscribed by a guarantor of sufficient ability, that the person making such bid will, if the same be accepted, enter into a contract according to the terms thereof, and give the security required by law in such case, within the time specified for that purpose in such notice; and to every such guaranty, a certificate shall be annexed, of the secretary of state, comptroller, attorney-general, treasurer, surveyor-general, or the first judge of the county where the guarantor resides, that the guarantor is a man of property and able to make good his guaranty.

Notices commenced in the state paper to be valid.

§ 7. All notices and advertisements required by law to be published in the state paper, the publication of which has been commenced or ordered before the designation of the person or persons in the fourth section of this act, may be continued in said state paper, and be as valid as if this act had not passed.

Repeal.

§ 8. All laws which are inconsistent with the provisions of this act are hereby repealed.

Office abolished.

§ 9. The office of state printer is hereby abolished.

CHAP. 253.

AN ACT concerning the enactment and promulgation of the statutes.

PASSED May 12, 1847.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. No bill shall be deemed to have been passed when three-fifths of all the members elected to each house were present on the final passage thereof, unless so certified by the presiding officer of each house; and in the publication of every law in all cases where a bill is certified by the presiding officers as having been passed in the presence of three-fifths of all the members elected to each house, the secretary of state after stating when the bill became a law, shall add the words "three-fifths being present."

Certain bills to be passed by "three-fifths."

8 N. Y., 329.

§ 2. The addition of the words "three-fifths being present" shall be presumptive evidence that the bill was certified by the presiding officers as having been passed in the presence of three-fifths of all the members elected to each house, and the absence of such words shall be presumptive evidence that the bill was not so certified by the presiding officers.

Evidence of being so passed.

CHAP. 254.

AN ACT concerning the laws, journals and documents of the legislature.

PASSED May 12, 1847; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The secretary of state shall annually cause indexes to the laws and also to the journals and documents of the two houses to be prepared as soon as practicable after the adjournment of the legislature.

Indexes to be prepared.

§ 2. It shall be the duty of the person having the contract to do the public printing, to print during each session of the legislature three hundred and seventy-four copies of the journals of each house as the same shall be from time to time delivered to him by the clerks of the senate and assembly. Two copies thereof shall be delivered by him in sheets as they are printed, to each of the clerks of the senate and assembly for the use of the respective houses, one copy to the secretary of state and the remaining copies with the indexes printed by him that shall be furnished to him for that purpose by the secretary of state as soon as may be after the close of each session shall be delivered to the said secretary.

Number of copies of journals to be printed.

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Number of
copies of
bills.

§ 3. He shall also print for the use of the members of the legislature during its session, two hundred and fifty copies of every bill, the printing of which shall be ordered by either house. Twelve copies thereof shall be delivered in sheets to the secretary of state at the close of the session, sixty copies shall be delivered to the senate, one hundred and fifty-eight copies to the assembly and twenty copies to the state officers, and one copy to each of the commissioners of the code and practice, as they shall be printed.

Copies of
governor's
messages,
reports, &c.

§ 4. He shall also print six hundred and fifty copies of messages from the governor, reports of standing or select committees, and reports and communications made in pursuance of law or of a resolution of either house whenever ordered by the house to which such message, report or communication shall be made. Eighty copies thereof shall be delivered to the senate, one hundred and sixty-eight copies to the assembly, and twenty copies to the state officers and one copy to each of the commissioners of the code and practice as they are printed, and the remaining copies as soon as may be after the close of each session, shall be delivered to the secretary of state.

Extra
copies to be
printed
when re-
quired.

§ 5. He shall also print an extra number of copies of bills, messages and the other documents specified in the last section whenever ordered by either house, in pursuance of the rules of such house or the joint rules of the two houses, and shall deliver one-third of such extra numbers to the senate and two-thirds to the assembly unless otherwise directed by law or the resolution of the house ordering such extra number.

Copies to be
full bound.

§ 6. There shall be bound annually in full binding, four copies of the senate and assembly bills, and sixteen copies of the journals and documents of both houses for the senate library, and eight copies of said bills and eighteen copies of the said journals and documents for the assembly library, and seven copies of the journals and documents of each house for the state officers, and the residue of the journals and documents shall be bound in boards.

Sealed pro-
posals to be
received for
binding.

§ 7. The said binding of journals and documents, together with the session laws shall be done in the manner following: The secretary of state and comptroller shall give at least twenty days' notice in two public newspapers in each of the eight judicial districts of this state, that they will on or before a day to be specified in said notice, receive sealed proposals for the binding provided to be done according to this act for two years, to be performed in a substantial manner and in the same style of execution as the said binding has heretofore been done; at the expiration of which time they shall open said proposals and enter into a contract with such person or firm as shall make the lowest offer or bid to do such binding, and shall give security in a bond to the people of the state of New-York to the satisfaction of the secretary of state and comptroller for the faithful performance of his or their con-

tract, which contract shall continue in force from the time of making the same; but nothing herein shall affect the existing contract for binding the journals, as contained in the contract for the public printing, nor shall the secretary of state and comptroller be compelled to accept any bid unless they shall deem the same advantageous to the state.

§ 8. The notice provided to be given under the last preceding section, after the first notice so to be given shall be given and published at the same time as the notice for printing required to be published in and by the first section of the act entitled "An act to provide for the public printing," passed March 5, 1846.

Notice how
to be given.

§ 9. To every bid made under the provisions of this act there shall be annexed a guaranty, subscribed by a guarantor of sufficient ability, that the person making such bid will, if the same be accepted, enter into a contract according to the terms thereof, and give the security required by law in such case within the time specified for that purpose in such notice; and to every such guaranty a certificate shall be annexed of the secretary of state, comptroller, attorney-general, treasurer or judge of the county where the guarantor resides, that the guarantor is a man of property and able to make good his guaranty.

To each bid
a guaranty
to be an-
nexed.

§ 10. Immediately after the bills, laws, journals and documents shall be bound in the manner provided for in this act, the secretary of state shall distribute the same as follows:

Distribu-
tion of
bills, &c.

1. To the clerk of the senate for the use of the senate, four copies of said bills, and to the clerk of the assembly for the use of the assembly, eight copies of said bills.

Bills for
senate and
assembly.

2. To the clerk of the senate for the use of the senate, sixteen copies of the laws, journals and documents, and to the clerk of the assembly for the use of the assembly, eighteen copies.

Laws,
journals and
documents.

3. To each of the following officers and persons, namely, the governor for the use of the executive chamber, lieutenant governor, the members of the senate and assembly, the clerks of the two houses, the judges of the court of appeals, the justices of the supreme court, the secretary of state for his office, the comptroller for his office, the treasurer for his office, the state engineer and surveyor for his office, the attorney-general for his office, the adjutant-general for his office, the chief clerk of the canal department for that department, the canal commissioners for their office, the inspectors of the state prisons, to be delivered by them to their successors in office, the commissioners of the code and practice, the librarian of the state library for the use of the library, and the several county clerks, to be kept in their respective offices, one copy.

Ditto, for
state offi-
cers, &c.

4. To each of the following officers, namely, town clerks for the use of their respective towns, district attorneys, to be delivered to their successors in office, and supervisors' clerks

County
officers.

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for the use of the board of supervisors, one copy of the laws without the journals.

Officers of
the legisla-
ture.

5. To each of the present deputy clerks, sergeants-at-arms, door-keepers, assistant door-keepers, porters, messengers and reporters of the two houses one copy of the journals and documents of the present session.

Copies to be
sold at cost.

§ 11. In addition to the number above provided for, there shall be twenty-five copies of the journals and documents printed and bound in the same manner as is provided by this act, which shall be offered for sale by the secretary of state at their cost, the proceeds of which shall be paid into the treasury of this state.

Exceptions
to present
session.

§ 12. Nothing contained in this act shall be construed to require the printing during the present session of the legislature of any greater number of copies of the journals and documents than is now required by the contract to perform the public printing.

CHAP. 458.

AN ACT in relation to the publication and distribution of the session laws of this state.

PASSED December 14, 1847; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows

Names to
be prefixed
to each
volume.

§ 4. There shall be prefixed to each volume of the session laws hereafter published, the names and residence of the governor, lieutenant governor, senators, and members of assembly, and presiding officers of both houses in office at the time of the passage of the laws contained in such volumes. The constitution of this state shall be published with the laws of the present session.

Constitu-
tion.

CHAP. 331.

AN ACT to amend chapter 280 of the Laws of 1845, entitled "An Act for the publication of the Session Laws in two newspapers in each county of this state," passed May 14, 1845.

PASSED April 17, 1858; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The sixth section of an act entitled "An act for the publication of the Session Laws in two newspapers in each county of this state," is hereby amended so as to read as follows :

Pay for
publishing
laws.

§ 6. Each of the publishers of such paper so designated as aforesaid, shall be entitled to receive for such publication of

all the laws above specified, a sum not to exceed twenty cents for each folio.

CHAP. 1.

AN ACT to regulate the supply of stationery to members and officers of the legislature.

PASSED January 12, 1859; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The clerks of the senate and assembly shall, when requested by any senator, or member of the house of assembly, or any officer or reporter or other person attached to or employed by the senate or assembly who shall be entitled by law to receive an allowance for stationery and newspapers, furnish to such person such stationery or newspapers as he shall require, to an amount not exceeding thirty dollars.

Clerks to furnish stationery and newspapers

§ 2. When requested by any such person specified in the preceding section, the clerk shall draw an order for such newspapers as the individual may designate, upon the publishers or venders of the same, as is now the custom; and if requested by the aforesaid persons, the clerk shall issue to such person an order, upon such stationer or bookseller as the person shall designate, for stationery to such an amount as such person may require, to an amount which, when added to the price of the newspapers received by such senator, member or officer, or other person aforesaid, shall not exceed the sum of thirty dollars.

Clerk to draw an order, &c.

§ 3. The order mentioned in the last section returned to the clerk accompanied by a certificate of the person in whose favor the same was drawn, that he has received the amount of the stationery mentioned in the order from the stationer or bookseller named therein, shall be a sufficient voucher to the clerk, and from him to the comptroller, that the same has been delivered to and received by such person.

Order to be a voucher for clerk.

§ 4. All acts and parts of acts, so far as they are inconsistent with the provisions of this act, are hereby repealed.

CHAP. 321.

AN ACT for the better preservation of the public records, and for other purposes.

PASSED April 14, 1859; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The manuscript or printed papers of the legislature, usually termed "on file," and which have been on file for a longer period than five years, in the custody of the clerks of

Manuscript papers placed in charge of regents, &c.

PART I

No papers removed from state officers.

Duty of trustees of capitol.

Regents of university to have sole charge.

Duty of regents and clerks of both houses

Certified copies of papers.

Fees.

Copies to be evidence, &c.

the senate and assembly, and all other public records of the state, not in the custody of some public officer, shall hereafter be placed in charge of the regents of the university.

§ 2. This act shall not be construed to cause the removal of the documents on record in the office of the secretary of state or in the custody of either of the state officers.

§ 3. It shall be the duty of the trustees of the capitol to assign and suitably arrange the room formerly in the use of the judges of the court of appeals, and any other rooms which may be needed and can be spared for the purposes of this act.

§ 4. The regents of the university shall have the sole charge and custody of the records and papers mentioned in the first section of this act, and no paper shall be removed from the files in their custody, or in the charge of the clerks of either house, except on a resolution of the senate or assembly, withdrawing the same for a temporary purpose, and in case of such removal, a description of the paper, and the name of the officer or person receiving the same shall be entered in a book to be provided for the purpose, with the date of its delivery and return. Nothing contained in this act shall be construed to prevent the clerk of the senate or assembly, or a deputy appointed by either of them for that purpose, from having access to any papers of the senate or assembly respectively, for the purpose of taking copies of the same, as hereinafter provided.

§ 5. It shall be the duty of the regents of the university, and of the clerks of the senate and assembly respectively, to cause all papers in their charge to be so classified and arranged that they can be easily found.

§ 6. No paper shall be withdrawn from the files of the senate or assembly except temporarily, as is provided for in section four of this act, whether the same is in the charge of the regents, or of the clerks of either house, but every person applying therefor to the clerk of the senate or assembly, shall be entitled to receive a certified copy of any petition, memorial, remonstrance, resolution, affidavit, report or other paper of any kind on said files upon payment to said clerk for such copy and certificate, for his own use, the same fees which are by law charged by the secretary of state for engrossing and certifying exemplifications of records deposited in his office.

A copy of any paper on the files of the senate, certified by the clerk of the senate, with his seal of office attached, or a copy of any paper on the files of the assembly, certified by the clerk of the assembly, with his seal of office attached, may be read and shall be received in evidence in any of the courts of this state, or before the canal commissioners, the canal appraisers, or before any state officer or other authority in like manner, and with the same effect as if the original was produced. The clerks of the senate and assembly respectively shall forthwith procure a suitable seal and press

for the purposes of this act, and shall each deposit a certified copy of such seal in the office of the secretary of state.

§ 7. It shall be the duty of the joint library committee of the legislature, annually, to examine and report to the legislature, the condition of the public records in the custody either of the clerks of the senate or assembly, of the regents, of the secretary of state, and all other state officers in the city of Albany, and particularly whether section five of this act is faithfully observed; and the regents of the university shall report to the legislature, at the commencement of every session, a list of all papers taken from their custody in accordance with section four of this act which have not been returned, with the date of their withdrawal, and the name of the officer receiving the same.

Duty of joint library committee.

CHAP. 395.

AN ACT in relation to legislative stationery.

PASSED April 14, 1860; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The clerks of the senate and assembly are hereby respectively authorized to procure and purchase all necessary stationery, printed blanks, and other articles necessary for official use in their respective departments, and the department of the sergeant-at-arms.

Clerks to purchase stationery.

§ 2. The vouchers for all purchases made by said clerks in pursuance of the preceding section, shall be allowed and paid by the comptroller, in the settlement of their official accounts, in the same manner that other contingent expenses of their respective departments have been heretofore allowed and paid.

Vouchers for purchases to be paid by comptroller.

§ 3. All acts and parts of acts which are inconsistent with the provisions of this act are hereby repealed.

CHAPTER IX.

State Property.

CHAP. 184.

AN ACT concerning the Literature Fund, Oswego Canal Fund, and the Erie and Champlain Canal Fund.

PASSED April 16, 1880.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The comptroller, under the direction of the commissioners of the canal fund, is hereby required to transfer to the literature fund, as of the first of January last, the bonds and mortgages now in his office, given for lands sold which belong

Transfer of stock.

PART I.

to the Oswego canal fund, for five per cent canal stock which is now held by the regents of the university as a part of the literature fund; and the regents of the university shall transfer to the commissioners of the canal fund, so much of the five per cent canal stock held by them, as shall be equal to the amount of said bonds.

How to be credited.

§ 2. The said stock, when received by the commissioners of the canal fund, shall be credited, or so much thereof shall be credited, on the debt due from the Oswego to the Erie and Champlain canal fund, as will satisfy the debt now due from the former to the latter fund, and the certificates of stock to that amount shall be cancelled.

Residue of stock.

§ 3. The residue of the stock which shall be so transferred, beyond the amount necessary to pay the Oswego canal debt now due to the Erie and Champlain canal fund, shall be redeemed by the said commissioners out of the surplus revenue of the Erie and Champlain canal, the certificates of stock cancelled, and the amount credited to the Oswego canal fund.

Interest.

§ 4. The interest due upon the bonds authorised to be transferred by this act, at the time of such transfer, shall be entered and considered as a part of the capital of the literature fund; and whenever an amount of interest shall be paid upon the said bonds, equal to the amount due at the time of such transfer, such amount shall be invested as a part of the capital of the literature fund.

CHAP. 242.

AN ACT to facilitate the transfer of the public stocks of this state.

PASSED April 17, 1830.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Rules and regulations.

§ 3. The commissioners of the canal fund shall, from time to time, prescribe such rules and regulations, to be in accordance with existing statutory provisions, relative to the transfer of all or any of the public stocks of this state, and the division and consolidation of the certificates thereof, as they shall think advisable and proper; and may alter and modify the same. The said commissioners may also require such returns to be made to the comptroller, by the officer or person authorised by law to transfer said stocks, and pay the interest on any loan, as they may deem reasonable and expedient.

CHAP. 288.

AN ACT to provide for the Deficiencies in the Revenue of the Oswego and the Cayuga and Seneca Canals.

PASSED April 20, 1830.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. All the deficiencies in the revenue of the Oswego canal fund, and the Oswego and the Cayuga and Seneca canals, to keep them in repair and pay the interest upon their cost, shall be a charge upon the general fund, and shall be paid as a part of the ordinary expenses of the government. Deficiency in revenue.

CHAP. 286.

AN ACT for the improvement of the Canal Fund.

PASSED April 26, 1831.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The commissioners of the canal fund may deposit the monies belonging to the said fund with any safe incorporated monied institutions in this state, and may make such contracts with such institutions for the interest on and duration of such deposits as shall be most promotive of the interests of said fund. Deposit of funds.

§ 2. The said commissioners shall, in their annual report to the legislature, specify the institutions holding all such deposits, the amount of each, and the rate of interest paid thereupon. Report of same.

CHAP. 320.

AN ACT relative to the Finances of this State, and the Duties of the Comptroller and the Commissioners of the Canal Fund.

PASSED April 26, 1831.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The comptroller, in conjunction with the superintendent of common schools, is hereby authorised and directed to select from the bank stock and bonds and mortgages belonging to the general fund, a portion thereof, sufficient to discharge the balances due by that fund to the common school and literature funds, and to transfer the stock and securities so selected, to the said funds respectively, to the amount of their respective balances. Transfer of stock to be made.

PART I.
Comptrol-
ler to pre-
pare certi-
ficates of
stock.

§ 2. It shall be the duty of the comptroller, from time to time, to prepare and deliver to the cashier of the Manhattan company, or such other officer as shall at any time be designated or authorized to issue certificates of stock created or to be created under the laws of this state, suitable books, containing certificates of stock, of the form and description, as near as may be, as are now used; which said certificates shall be filled up in the hand-writing of said comptroller, or such one of the clerks in his office as he shall from time to time designate, of the following denominations: one dollar, fifty dollars, one hundred dollars, three hundred dollars, five hundred dollars, one thousand dollars, three thousand dollars, five thousand dollars, ten thousand dollars, and twenty thousand dollars: and said certificates shall be numbered and signed by the comptroller, with the addition of his name of office. Said books shall also be prepared with broad and proper margins, in which shall be written out, at length, the denominations or amounts of said certificates, with the corresponding numbers, and shall be signed by the comptroller.

Certificates
returned to
be pre-
served.

§ 3. It shall be the duty of the cashier of the Manhattan company, or such other officer as shall be authorised or designated to issue certificates of stock, to preserve all certificates returned to him; and whenever he shall issue certificates of stock, after he shall be furnished with the books in the last section mentioned, he shall take them from said books, and sign and date the same; and he shall write in the margin the date when, and the person to whom, any certificate shall have been issued.

Books to be
delivered to
comptrol-
ler.

§ 4. On the fourth Monday of September in each year, it shall be the duty of the comptroller to receive from the said cashier or other officer as aforesaid, all such books, the certificates from which shall have been cut, and to receive and compare therewith the certificates of stock returned; and if the amounts correspond, after the necessary allowance for any new stock authorised to be issued by this state, to furnish said cashier or other officer with the proper voucher thereof.

And to be
preserved
by him.

§ 5. It shall be the duty of the comptroller to preserve the books and certificates returned, (after seeing that said certificates are cancelled), in some proper and safe place of deposit.

To give
notice of
new certi-
ficates to be
issued.

§ 6. It shall be the duty of the comptroller to give notice, in two of the public newspapers printed in the city of New-York, and in such other papers as he shall deem proper, and to renew the same from time to time, that new certificates of stock will be issued, of the form pointed out in the second section of this act, and to request the holders of certificates of stock to surrender and cancel their old and receive such new certificates.

Stock sur-
rendered.

§ 7. It shall be the duty of said cashier, or such officer as shall be designated in his place as aforesaid, whenever any certificate of stock shall be surrendered and cancelled as afore-

said, to issue new certificates from the aforesaid books, and to write in the margin thereof, "stock surrendered;" and the certificates so cancelled, shall be preserved and delivered to the comptroller.

§ 8. In case any one of the denominations of certificates does not correspond with the stock transferred or cancelled as aforesaid, certificates of different denominations may be issued to meet the amount; and in case the holders of stock prefer selling the fractional parts of their stock, less than one hundred dollars, to receiving certificates therefor, the said cashier, or other officer appointed in his place, is directed to purchase any said fractional parts; and the comptroller is directed to pay over to said cashier, or other officer designated in his place, the necessary moneys to meet advances under this section, and charge the same to the funds of the Erie and Champlain canals.

Certificates for fractional parts.

§ 9. It shall be the duty of the comptroller, to obtain from the cashier of the Manhattan company, on or before the thirtieth day of September next, a statement of all certificates of stock, issued by the said cashier in behalf of this state, in which shall be specified the date of every such certificate, its amount and the person to whom issued.

Cashier to furnish statement to comptroller.

§ 10. The comptroller shall, on or before the first day of September next, prepare a schedule of all debts due this state, which constitute a part of the general fund, and were contracted during or previous to the year one thousand eight hundred and twenty-one, and for which the state hold no security by way of mortgage or otherwise on real estate, and the real estate mortgaged for the security thereof has been sold or disposed of, and of all such debts belonging to the general fund, upon which no payment for principal or interest has been made within the last six years; which said schedule shall contain the name of the debtor, the amount due for principal and interest, and the time when the debt was contracted.

Comptroller to make schedules of all debts due the state.

§ 11. As soon as said schedule is prepared, or before that time, he shall cause notice to be published in the state paper, that said schedule has been or will be prepared, and that unless the said debtors shall, on or before the first day of November thereafter, to be inserted in said notice, pay or compromise their respective debts, the schedule of those not settled, will be advertised for thirty days, in the state paper, for sale, and will be then sold at public action; and the notice required by this section shall be published for thirty days.

To publish notice thereof in state paper.

§ 12. It shall be the duty of the comptroller, on or before the fifth day of November next, to advertise for public sale, the stock belonging to this state in the bank of Hudson and in the bank of Columbia, and also the debts specified in the tenth section, which shall not have been paid, or which shall not have been compromised according to the provisions of this act; which said advertisement shall be published twice a week,

To advertise for sale stock of Hudson and Columbia banks.

PART I.

Also to sell
debts so
advertised.

for five weeks, in the state paper, and shall specify the time and place of sale.

§ 13. It shall be the duty of the comptroller, to sell at public auction, the stock specified in the last section, and all such debts as shall have been so advertised, and which shall not have been paid or compromised before the time of such sale, at such time and place in the city of Albany, as shall be designated in the said notice, unless the said comptroller shall become satisfied, as to any of said debts, that they ought not to be sold, but retained for prosecution.

On such
sale to
make trans-
fer to the
highest
bidder.

§ 14. On such sale, the comptroller is authorized and directed to transfer to the highest bidder, any debt purchased by him; and the securities therefor held by the state, and the amount of said bid shall be paid at the time thereof, or the said debt shall again be put up, and the highest bidder afore-said charged with the deficiency; and the said comptroller is directed to furnish to the purchaser a certificate of said transfer; and said certificate shall vest in the purchaser, all the rights of the people of the state of New-York in said debt, and the right to commence suits thereon in his own name, as assignee of the state of New-York; but said transfer or certificate shall not be considered as affording any guarantee or engagement, on the part of the state, of the legality, validity or amount of said debt, or to render it liable for any costs or charges arising from efforts to collect the same.

To compro-
mise with
debtors.

§ 15. The comptroller is hereby authorized to compromise any of the debts mentioned in the tenth section of this act, and to give releases therefrom; and he may require the oath of the debtor or his representatives, as to the extent of his or their ability to pay.

Fees al-
lowed to
comptroller
for copies.

§ 16. In addition to the fees of office which the comptroller is now by law permitted to charge, he shall charge the same fees for copies of papers, records, engrossing, seal and certificate to be used in a court of justice, as are now chargeable by the secretary of state, and account for the same in the same manner.

Section 17 repealed. Laws of 1834, ch. 284.

Comptrol-
ler's annual
report.

§ 18. It shall be the duty of the comptroller, in preparing his annual statement of the funds, to be laid before the legislature for the year one thousand eight hundred and thirty-two to ascertain the amounts of the three following items of the general fund: First, for lands sold or contracted to be sold: second, for loans: third, for other debts due the state, from an examination of the securities constituting said items. And also to specify the several debts due the state, and belonging to said fund, for which the state hold no security by way of mortgage or lien on real estate, and when said debts fell due; and the statement to be exhibited every three years thereafter, shall be prepared in like manner: and every annual statement shall specify the amount due for interest on the

three items above named, calculated to the day when the last fiscal year closed.

§ 19. There shall be paid by the treasurer, on the warrant of the comptroller, a sum not exceeding two thousand dollars, for clerk hire for the comptroller's office during the present year, in addition to the permanent appropriation for that object, now existing by law; and the said money, or so much thereof as it shall be necessary to expend, shall be drawn, expended and accounted for, in the same manner that other moneys are directed by law to be drawn, expended and accounted for, which are appropriated for clerk hire for the same office.

Clerk hire.

§ 20. There shall be allowed annually to the treasurer, the sum of one thousand three hundred dollars, for clerk hire in his office, instead of the present appropriation for said office; which said sum shall be drawn and expended in the same manner as that appropriated for clerk hire in the office of the comptroller is directed to be drawn and expended, to commence on the first of May next.

Treasurer's clerk hire.

§ 21. The treasurer is hereby authorised to appoint a deputy treasurer who may perform any of the duties of the treasurer, (except the signing of checks, and the duties of the treasurer as commissioner of the land-office commissioner of the canal fund, and state canvasser,) and for whose conduct the treasurer shall be responsible.

May appoint a deputy.

§ 22. Accounts of sheriffs for paying the fees of clerks of counties for drawing grand juries, for attending the drawing of grand juries, and for summoning constables to attend courts, shall hereafter be presented to and audited by the boards of supervisors of the counties respectively in which such service shall be rendered, and such accounts shall not hereafter be chargeable to this state.

Accounts of sheriffs and clerks.

§ 23. All laws authorising the payment of any moneys for incidental expenses attending Indian affairs are hereby repealed, and all annuities payable to Indians shall hereafter be paid by such agents residing in the vicinity of the Indians entitled thereto, as shall be authorised for that purpose by the comptroller; and such agents shall receive such compensation for their services, not exceeding one per cent on the amount disbursed by them, as the comptroller shall allow; a sum not exceeding five hundred dollars in any one year, may be drawn from the treasury by the person administering the government of this state, for incidental expenses in relation to Indian affairs, which sum shall be accounted for to the comptroller, with the vouchers for which it may be paid.

Indian affairs.

§ 24. The present fiscal year of the office of the treasurer of this state shall close on the thirtieth day of September next; and the future fiscal years of that office shall be from the first day of October in the preceding, to the thirtieth day of September in the succeeding year, inclusive.

Fiscal year in treasurer's office.

PART I.

In comptroller's office.

§ 25. All books and accounts in the office of the comptroller, shall be kept, and all the duties of that office shall be performed, with reference to the aforesaid change in the fiscal year of the treasurer's office, and in accordance with that change.

Officers when to close accounts.

§ 26. All officers and persons required to render annual accounts to the comptroller or treasurer, shall close those accounts on the thirtieth day of September in each year, and shall render such accounts as soon after that day, in every year, as may be practicable.

Commissioners of the canal fund.

§ 27. The annual report required from the commissioners of the canal fund, shall exhibit a statement of the funds entrusted to their care and management, from the first day of October in every preceding year, to the thirtieth day of September in every subsequent year, inclusive, and the accounts of the said funds in the comptroller's office, shall be kept in accordance with the provisions of this section; but the said commissioners, separate from their annual report abovementioned, shall prepare and lay before the legislature, with their annual report in each year, a full statement of all the tolls collected upon all the canals of the state during the season of navigation next preceding such session; and also a statement of the rates of toll on all articles transported on said canals, and a comparative statement showing the amount fixed by the constitution, and the amount charged.

Repeal.

§ 28. All acts and parts of acts of the legislature of this state, inconsistent with or repugnant to any of the provisions of the preceding sections of this act, are hereby repealed.

CHAP. 246.

AN ACT concerning costs in certain suits brought in the name of the People.

PASSED April 24, 1832.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Costs in suits brought in the name of the state.

§ 3. In all suits which may be commenced after this act takes effect, in the name of the people of this state, where the debt, damages or sum of money in controversy, if recovered, will not belong to the treasury of this state, the cost of prosecuting such suit, or defending where the defendant succeeds in his defence, shall not be a charge against the state treasury; but such costs, if the suit shall be brought for a debt, damages or sum of money, or where the matter in controversy, if recovered, will belong to any particular county, city, town or village, shall be a charge against such county, city, town or village.

CHAP. 52.

AN ACT for the support of the Government of this State.

PASSED April 3, 1835.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever the condition of the treasury shall render it necessary for the comptroller to borrow money under the authority vested in him by section eleven, title three, chapter eight, of the first part of the Revised Statutes, it shall be lawful for him to issue transferable certificates of stock for the amount borrowed, at an interest not exceeding five per cent per annum, payable quarterly, and the principal reimbursable at such time or times, not exceeding seven years, as in the opinion of the comptroller the treasury will be in a condition to pay the amount borrowed, from receipts of auction and salt duties, canal tolls, direct tax, or other revenues of the state, which may hereafter belong to the general fund; and so much of the said revenues as will be sufficient to reimburse the amount to be borrowed for the support of the government, are hereby pledged to that object.

Power to borrow money.

CHAP. 260.

AN ACT regulating the specific funds of the state.

PASSED May 9, 1835.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the general fund, and all bonds and mortgages which shall hereafter be received for account of the general fund, he shall annually, at the close of the fiscal year, assign as follows, viz.: First, such an amount thereof to the literature fund as shall be equal to the amount of capital that may at the time be due to that fund from the general fund; and second, the residue to the common school fund. The amount which shall be so transferred to the common school fund, shall be charged to that fund in the books of the comptroller's office, and shall be refunded to the general fund by current receipts into the treasury, on account of the capital of the common school fund.

Bonds, &c. of general fund to be assigned to school fund.

§ 2. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the literature fund, and all bonds and mortgages which shall hereafter be received for account of the literature fund, including such as shall be assigned to that fund pursuant to the preceding section, he shall assign to the common school fund annually at the close of the fiscal year. And upon every such assignment, he shall at the same time transfer to the literature fund an equal

Ib. of literature fund.

PART I.

Ib. of canal
fund.

amount of bank stock or public stock belonging to the common school fund.

§ 3. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the Erie and Champlain canal fund, and all bonds and mortgages which shall hereafter be received for account of the Erie and Champlain canal fund, he shall assign to the common school fund annually at the close of the fiscal year. Upon every such assignment he shall at the same time transfer to the commissioners of the canal fund an equal amount of canal stock belonging to the common school fund: And if the stock so transferred shall be Erie and Champlain canal stock, the said commissioners shall cancel the same; but if it shall be Oswego canal stock, it shall be held by them on account of the Erie and Champlain canal fund.

Ib. of
Oswego
canal fund.

§ 4. The comptroller shall assign to the common school fund, all bonds and mortgages belonging to the Oswego canal fund; and all bonds and mortgages which shall hereafter be received for account of the Oswego canal fund, he shall assign to the common school fund annually at the close of the fiscal year. Upon every such assignment, he shall at the same time transfer to the commissioners of the canal fund an equal amount of canal stock belonging to the common school fund; the stock so transferred shall be cancelled by the said commissioners; and if it shall be Erie and Champlain canal stock, they shall pay the amount thereof to the Oswego canal fund out of the monies belonging to the Erie and Champlain canal fund.

Time of
assignment.

§ 5. The bonds and mortgages directed by this act to be assigned immediately, and the stocks to be transferred at the same time, shall be so assigned and transferred as of the thirtieth day of September, one thousand eight hundred and thirty-four; but if there shall be any loss to the school fund by any of the bonds assigned to it by virtue of this act, the amount of such loss shall be repaid to the school fund from the general fund.

CHAP. 234.

AN ACT to provide for the payment of costs in certain cases.

PASSED May 3, 1836.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Costs of
certain
suits to be
paid.

§ 1. Wherever suits have been brought, or shall hereafter be brought by the direction of the commissioners of the land-office, pursuant to the fifth article of the fifth title of the ninth chapter of the first part of the Revised Statutes, and the plaintiffs in such suits have failed or shall fail to recover in such suits, or the defendant in such suits shall be unable to pay the costs adjudged against them, the comptroller shall have power to audit and settle the amount of the taxable

costs in such suits, and to direct the payment thereof out of the treasury of this state to such district attorneys as may be entitled to the same.

CHAP. 356.

AN ACT to replenish the general fund by loans from the canal fund.

PASSED May 16, 1836.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever a sufficient amount of money shall have been collected and safely invested to pay the principal and interest of the debt created for the construction of the Erie and Champlain canals, it shall be the duty of the commissioners of the canal fund, annually to loan to the treasury of this state, for the use and benefit of the general fund, from moneys belonging to the canal fund, the sum of four hundred thousand dollars. Annual loan to general fund.

§ 2. The comptroller shall so keep his accounts, as to be able, at any time, to state an account between the canal fund and the general fund under this act; and the general fund shall stand charged on the books of the comptroller as a debtor to the canal fund, for all sums of money loaned from that fund to the general fund; and the faith of the state is hereby pledged to repay to the canal fund any amount that may be necessary to pay off and liquidate all debts and legal charges against the general fund, to the amount that may be loaned or advanced to the general fund under the provisions of this act. Accounts how to be kept.

§ 3. The sum of three hundred thousand dollars, reserved by the ninth section of the act entitled "An act in relation to the Erie canal," passed May 11, 1835, may be loaned under this act, and shall be considered as making part of the sum hereby authorized to be loaned when that section shall take effect. Under act of 1835.

CHAP. 2.

AN ACT accepting the deposit of certain moneys belonging to the United States.

PASSED January 10, 1837.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. This state agrees to receive in deposit for safe keeping, its share of the surplus money of the treasury of the United States of America, under the thirteenth section of the act of congress, entitled "An act to regulate the deposits of the public money," passed June 23, 1836, upon the terms, condi- Money to be received on deposits.

PART I.

tions and provisions in said act contained; and the faith of the state is hereby inviolably pledged for the safe keeping and repayment of all sums of money thus received, from time to time, whenever the same shall be required by the secretary of the treasury of the United States under the provisions of said act.

Duty of the treasurer.

§ 2. The treasurer of this state is hereby authorized to receive from time to time, the proportions of the public money to be deposited with this state, and safely to keep the same for the state, as the public funds of this state are kept, until otherwise directed by law; and he is authorized to sign and deliver to the secretary of the treasury of the United States, certificates of deposit, to be countersigned by the comptroller, for such sums as may be received in deposit; by which certificates the faith of the state shall be pledged for the safe keeping and repayment of all sums of money so received, whenever the secretary of the treasury from time to time shall require the same to be repaid, under the provisions of the act of congress aforesaid.

Money how and where to be deposited.

§ 3. The seventh section of title four of chapter eight of the first part of the Revised Statutes, is so far modified as to permit the treasurer to deposit the moneys which may from time to time be received by him under this act, in such bank or banks as in the opinion of the comptroller and treasurer shall be secure, and pay the highest rate of interest to the state for such deposit, until arrangements are made for the permanent investment of said moneys. All agreements for these deposits shall be in writing, one copy of which shall be filed: in the comptroller's office; and the provisions of title third of chapter eight of the first part of the Revised Statutes, prescribing the duties of the comptroller in relation to moneys in the treasury, and the provisions of title four of the same chapter, prescribing the duties of the treasurer in relation to moneys in the treasury, shall apply to the moneys which may be deposited in any bank or banks by virtue of this act.

Duty of the governor.

§ 4. The governor of this state is hereby required to transmit a copy of this act, exemplified by the secretary of this state, to the secretary of the treasury of the United States, as soon as may be after its passage.

CHAP. 150.

AN ACT authorizing a loan of certain moneys belonging to the United States, deposited with the State of New-York for safe keeping.

PASSED April 4, 1837.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Money how apportioned.

§ 1. Such share of the surplus money of the treasury of the United States, as has been or shall be deposited with this

state for safe keeping, under the thirteen section of the act of congress, entitled "An act to regulate the deposits of the public money," passed June 23, 1836, shall be apportioned among the several counties of this state, according to the population thereof, as ascertained by the last state census, for the purpose of being loaned therein in the manner hereinafter directed in this act.

3 N. Y., 400; 2 S. S. C., 327.

§ 2. The governor shall nominate, and with the consent of the senate shall appoint two reputable inhabitants resident in each of the counties of this state, who shall be commissioners for loaning the moneys mentioned in the preceding section, in the several counties for which they shall respectively be appointed, and who shall hold their offices for the term of two years.

Commissioners how appointed.

7 B., 33.

§ 3. The commissioners of each county respectively, before they enter upon the discharge of the duties of the said office, shall execute separate bonds to the people of the state of New-York, with two or more sufficient sureties, to be approved of by at least two of the judges of the court of common pleas and the clerk of their respective counties, signified by endorsing their approbation on the back of the bond, which bond shall be in such penalty as the comptroller shall direct for such county, and conditioned for the true and faithful performance of the duties of their office without favor, malice or partiality.

Bond how given and approved.

§ 4. Each commissioner shall respectively take the oath of office prescribed in article three of title six of chapter five of the first part of the Revised Statutes, before one of the officers authorized in said article to administer such oaths; which oath shall be endorsed on the said bond and signed by the officer before whom the same shall be taken, and the bond so endorsed shall be filed in the office of the comptroller; and in case of the forfeiture of any such bond the comptroller is hereby directed to cause the same to be put in suit.

Oath, to be on bond and both filed in Comptroller's office.

§ 5. The commissioners of the several counties to be appointed in pursuance of this act shall respectively be known and distinguished by the name and style of "the commissioners for loaning certain moneys of the United States of the county," of which they are respectively commissioners, and they shall be named and described by such name and style in all legal and other proceedings which may be had under the provisions of this act.

Style of commissioners.

§ 6. Actions may be brought by the said commissioners upon any contract lawfully made with them or their predecessors in their official character, and to recover damages for any injuries done to their rights or to the property in their charge, or which was in the charge of their predecessors as

Actions brought by commissioners.

PART I.

such commissioners; and all such actions shall be brought by the said commissioners in the name of their respective offices.

Suit not to
abate by
death, &c.
of com's.

§ 7. No suit commenced by the said commissioners shall be abated or discontinued by the death of such commissioners, their removal from the county or their removal from or resignation of their offices, or the expiration of their terms of office; but such suit shall be continued and prosecuted by their successors in office in like manner as if the commissioners who commenced such suit had continued in their said offices.

Recovery
against
com's, how
settled.

§ 8. Wherever in any suits by or against the said commissioners, any debt, damages or costs, shall be recovered against them, the comptroller, in case he shall be satisfied that such recovery was not had against them in consequence of any default or misconduct on their part, may direct them to pay the amount so recovered out of the interest of the moneys to be loaned in pursuance of this act, and shall be authorized to allow to the said commissioners the amount so paid in their official accounts.

Money how
drawn from
the treasury.

§ 9. Whenever the said commissioners shall have respectively taken the oath of office required in this act, and shall have filed with the comptroller such bond as by this act is directed, the comptroller and treasurer shall authorize the said commissioners in such manner as they, the said comptroller and treasurer, shall direct to draw for their respective proportions of the moneys mentioned in the first section of this act; and the said commissioners shall loan out the same to the inhabitants of their respective counties on mortgage on improved lands in the same county owned by the borrower, and apportion the same among the cities, towns and wards of their respective counties according to the population thereof, as ascertained by the last census, and shall loan out the said moneys to the said inhabitants of the several cities, towns and wards in their respective counties, on mortgage on improved lands in the same county owned by the borrower: but if the whole sum apportioned to any city, town or ward should not be applied for by the inhabitants of said city, town or ward, and taken up as provided for by this act, then the said sum, or the excess not applied for, shall be apportioned by the said commissioners among the other cities, towns and wards applying for the same, according to their respective population: They, the said commissioners, first giving public notice in writing by posting up such notice on the outward door of the court-house in the county, or of the building where the court of common pleas was then last held in the same county, and at one public place in each town and ward in said county, and by causing the same to be published at least in one public newspaper in their respective counties, wherever there are any printed in the county, that at a certain place to be designated in such notice, and on a certain day at least fifteen days after the said notice shall be so posted and

How to be
loaned.

Notice to
borrowers.

CHAP. IX.

published, they will be ready to receive applications from borrowers, according to the directions of this act; and as on that day borrowers make their applications for loans, their names and the sums they apply for shall be entered in the minute book of proceedings hereinafter mentioned: and every borrower shall be accommodated according to the priority of his application, subject to the proviso hereinafter mentioned, if there should be no reasonable objections to the title and value of the lands offered to be mortgaged by him. But if the amount of the applications of the borrowers in each city, town and ward made according to the directions of this act upon the first day shall exceed the sum apportioned to such city, town and ward, then and in such case the sums so applied for by such borrowers shall be proportionably abated; and all applications shall be received from borrowers on the first day which shall be designated in pursuance of this section for that purpose, for all the moneys mentioned in the first section of this act to be apportioned among the several counties of this state as therein prescribed; and in case the whole amount to be loaned to the borrower shall not be paid to him at the time of the execution of his mortgage, the said commissioners shall give to such borrower a certificate specifying the amount remaining unpaid and that the same shall be paid to such borrower on demand after the same shall have been received by such commissioners; and any interest which shall accrue on the sum so certified from the time of the execution of such mortgage to the time the same shall be received by the said commissioners, shall be deducted from the interest which shall accrue on the amount loaned to such borrower; and the mortgages taken in pursuance of this act shall be deemed good and valid incumbrances for the whole amount specified in said mortgages from the day of the date thereof, in like manner as if the whole amount had been paid to the borrower on that day.

Applications to be entered in minute book, &c.

In what case to be abated.

In what case certificates to be given to borrowers.

Interest when to be deducted.

§ 10. The said commissioners respectively, before they accept a mortgage on lands for any of said moneys, shall be satisfied that the borrower has a title in fee to such lands, and that the same are free and clear of all incumbrances and are worth double the amount of the sum loaned, exclusive of buildings and of the value of the rent in perpetuity if any charged thereon; and wherever the said commissioners shall deem it necessary they shall, in addition to the examinations for that purpose hereinafter directed to be made, require the borrower to satisfy them by proper evidence that he possesses an estate in fee in such lands free and clear of all incumbrances.

Commissioners to be satisfied as to value, and that borrower has a title in fee.

§ 11. The said commissioners shall loan the said moneys in sums not exceeding the sum of two thousand dollars, except in the city of New-York, and in that city in sums not exceeding the sum of five thousand dollars; and in the several counties, except in the city of New-York, in sums not under

In what sums money to be loaned.

PART I.

two hundred dollars, and in that city not under five hundred dollars, unless the proportion be less to any one person by means of more than the amount apportioned to any county having been applied for.

21 B., 570.

Interest
when pay-
ble.

Payment of
principal.

When per-
mitted.

§ 12. The interest of the moneys to be loaned as aforesaid, shall be payable annually on the first Tuesday of October in each and every year, and the said moneys shall be loaned on a credit of not exceeding five years, subject, however, to the condition of being called in, the one half on a previous notice of one year, and the remainder on a previous notice of two years; and no borrower shall be permitted to pay any part of the principal moneys loaned on any day other than the first Tuesday of October in any year, unless so many shall offer payment on that day that the said commissioners cannot during the day receive the whole sums offered to be paid, in which case they shall continue to receive until all who on that day offered have paid the moneys so offered. But the loan commissioners, in their discretion, may at any time receive the principal sum loaned on any mortgage, together with the interest which would become due thereon upon the first Tuesday of October then next, and on such payment discharge the securities taken therefor; and whenever any moneys loaned under the act hereby amended, shall be paid to the commissioners of loans, the same shall be paid into the treasury and be applied to the reimbursement of the loan made to the treasury by the commissioners of the canal fund, until the whole of the said loan shall be reimbursed; and the moneys received from time to time by the commissioners of the canal fund, in payment of the said loan to the treasury, shall be re-invested and managed by the said commissioners in trust for the holders of the outstanding stock issued for the construction of the Erie and Champlain canals, according to the provisions of the act entitled "An act respecting navigable communications between the great western and northern lakes and the Atlantic ocean, passed April 15, 1817.

As Amended, Laws of 1838, ch. 193.

In what
case com'r's
to be re-
moved.

New ap-
pointment.

Com's may
be sum-
moned to
answer
charges.

§ 13. In case any of the said commissioners shall remove out of the county, die, or neglect or refuse to perform the duties required of him in this act, or shall neglect or refuse to give additional security when required as hereinafter provided, or shall be guilty of any misconduct in his said office, upon report or complaint made thereof to the governor, the governor shall, in case of such neglect of said commissioner remove him from his said office; and also, as well as in case of such death or removal, appoint some other reputable inhabitant of said county as such commissioner, who shall hold his office and discharge the duties thereof until the next meeting of the senate; and in case the said commissioner shall be guilty of any misconduct in his said office, then the governor shall, upon complaint as aforesaid, summon the person so charged

with improper conduct to appear before him, and shall hear and determine the subject matters of said complaint; and on being satisfied of the truth thereof, the governor is hereby required to remove such commissioner, and to appoint some other reputable inhabitant of said county in his stead, who shall hold his office and discharge the duties thereof until the next meeting of the senate.

And removed.

21 B., 506.

§ 14. Any of the said commissioners who shall have faithfully discharged the duties of the said office may resign the same, and the governor, with the consent of the senate, shall appoint a fit and proper person to supply any vacancy occasioned by such resignation, or in any other manner, whenever the same shall happen; and every person who shall be appointed in pursuance of this or the next preceding section, shall do the like acts as other commissioners are by this act required to do, and shall be subject to the like penalties, restrictions and regulations, and receive the same compensation and advantages as the other commissioners are liable, subject or entitled to.

Com's may resign.

New appointment.

§ 15. The said commissioners, in case of a sale of any lands mortgaged to them by virtue of this act, may retain in their hands out of the moneys for which the said lands are sold, besides the principal and interest, as hereinafter directed, the amount of the disbursements paid out by them on account of the advertisements and sale, and on account of the fees paid for the searches and taking affidavits, and their compensation for serving said advertisement, and the sum of five dollars for their services in preparing the notices of such sale and superintending the same: But where the moneys due on the mortgage shall be paid before a sale of the mortgaged premises, the said commissioners shall not be authorized to charge or receive more than the amount of the disbursements and two dollars for their services.

Com's to retain am't of disbursements in case of sale.

As amended by Laws of 1863, ch. 73. Post, vol. 6, p. 61.

§ 16. The said commissioners, on the first Tuesday of December next, and on the first Tuesday of December in every year thereafter, and also whenever the comptroller shall require it to be done, shall render a full and detailed account to the comptroller, in such form as he shall prescribe, of all the moneys by them received, and of the sales of all lands by them made by virtue of this act, and of all deficiencies which may happen by such sales or otherwise; and whenever it shall appear by the account of any of the commissioners that lands have been purchased by them, or any of them, for the people of this state, the comptroller shall make a report thereof to the legislature at their next session.

To report to comptroller.

§ 17. If any of the moneys authorized to be loaned by this act, shall remain in the hands of the commissioners for want of borrowers, for the space of four weeks after the first day appointed for loaning the same, the said commissioners, in every such case, may loan out such moneys on like security as aforesaid, by mortgage on improved lands in the same county, to any person who will borrow the same, in any sum,

Moneys remaining 4 weeks in hands of com's, how loaned.

PART I.

in the city and county of New-York, not exceeding ten thousand dollars, and in the other counties of this state in any sum not exceeding five thousand dollars.

Interest to be paid to treasurer.

Compensation of commissioners.

§ 18. The said commissioners shall, on or before the first Tuesday of November in every year, pay to the treasurer of this state the interest of the money committed to their charge respectively, by virtue of this act, at the rate of seven per cent per annum, subject, however, to the following deduction: The said commissioners may retain, as a compensation for their services, out of said interest, in each and every year after the following rates: Upon twenty-five thousand dollars, or a less sum, so committed to their charge, three-quarters of one per cent; upon the further sum of twenty-five thousand dollars, or less, half of one per cent; and where the whole sum shall exceed fifty thousand dollars, half of one per cent, except in the city and county of New-York, in which city and county the commissioners shall, upon all sums exceeding fifty thousand dollars, only be permitted to retain one quarter of one per cent.

Evidence of title to be given to purchaser at sale.

§ 19. Upon every sale of lands the commissioners shall fill up the blanks in one of the loose sheets of blank mortgages to be provided by them as in this act is directed, like to the original mortgage, and attest the same as a true copy under their hands and seals, and deliver the same, together with the said affidavits and the deed herein mentioned, instead of the original mortgage, to the purchaser as the evidence of his title.

As amended by Laws of 1863, ch. 73. Post, vol. 6, p. 61.

Form of bond.

§ 20. The bond to be given by the said commissioners shall be in substance as follows, to wit: "Know all men by these presents, that we are held and firmly bound unto the people of the state of New-York, in the sum of to be paid to the said people; for the payment whereof we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated the day of in the year one thousand eight hundred and Whereas the above bounden has been appointed one of the commissioners for loaning certain moneys of the United States, for the county of : Now the condition of this obligation is such, that if the above bounden shall well, truly and faithfully perform the duties of said commissioner pursuant to the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New-York for safe keeping; and shall discharge his said duties without favor, malice or partiality; then this obligation to be void, otherwise to remain in full force and virtue. Sealed and delivered in the presence of ."

Commissioners to procure books, blank mortgages, &c.

§ 21. The said commissioners respectively are hereby authorized and required, under the directions of the comptroller, to procure such books with blank forms, and such printed mortgages with blanks, as will be necessary under the provisions of this act: the expense of which shall be a charge on the

interest to be received on the moneys authorized to be loaned by this act.

§ 22. The said commissioners shall exact interest on the moneys loaned by virtue of this act, from the day of the date of the respective mortgages, except as is provided in the ninth section of this act. Interest on mortgage from its date.

§ 23. In all cases where a sale of lands shall be made in pursuance of the provisions of this act, and a vacancy shall exist in the office of one of the commissioners in the county when such sale shall be had, it shall be lawful for the remaining commissioners to execute a deed in pursuance of this act for the lands so sold, and to fill up and deliver, attested under his hand and seal as a true copy, one of the loose sheets of mortgages, in pursuance of section nineteen of this act, and also to deliver said affidavits, all of which shall have the same effect as if executed and done by two commissioners of said county. When one commissioner may execute a deed.

As amended by Laws of 1863, ch. 73. Post, vol. 6, p. 61. 21 B., 506, 570.

§ 24. The commissioners shall respectively attend their office every year, to receive the moneys directed by this act to be paid to them, upon the first Tuesday of October, and thereafter on the Tuesday and Wednesday of each week for the space of three weeks. Commissioners to attend office to receive money, see § 41.

§ 25. The said commissioners respectively, before they accept any mortgages on lands for any of the said moneys, shall first view the lands so offered to be mortgaged, or make due inquiry respecting the value thereof, and shall examine the titles thereto by perusing the deeds, patents, surveys and other writings and conveyances by which the same are held; and the said commissioners respectively shall, and they are hereby empowered to administer to all persons applying to borrow any of the said moneys, the following oath, viz.: "I, do swear, that I am bona fide seized in fee simple of the lands, tenements and hereditaments by me now offered to be mortgaged, in my own right and to my own use; and that the same have not been conveyed to me in trust, to borrow any sum or sums of money upon the same, for the use of any other person or persons whatsoever; and that the said premises are free and clear from all gifts, grants, sales, mortgages, judgments, liens, and from all other incumbrances whatsoever, to my knowledge and belief:" and where the lands offered to be mortgaged are subject to a rent in perpetuity, the borrower, in the said oath, may make an exception of such rents. And in order the better to satisfy the said commissioners as to the title and value of what is offered in mortgage by borrowers, they or either of them are hereby authorized and empowered to examine the borrower and witnesses concerning the same, upon oath, and to administer such oath: a brief minute of which examination, and the names of the persons so examined shall be entered in the said minute-book of proceedings. Commissioners to examine lands and titles, &c. Oath of mortgagor. Examination of borrower to be entered in minute-book. 6 N. Y., 373; 21 B., 570.

§ 26. No money shall be loaned under this act, unless the title deeds of the real estate offered to be mortgaged as a security for such loan are recorded in those counties where Deeds of mortgaged premises to be recorded

PART I.

such recording is necessary to render valid the titles to land, and in all other counties, unless such title deeds, if not recorded, shall be deposited with the said commissioners, or one of them, until they shall be so recorded.

Moneys to be loaned at 7 per cent.

Witnesses to mortgage, how minuted, fees therefor, &c.

§ 27. The said commissioners shall loan out the said moneys according to the direction of this act, at an interest of seven per cent per annum; and the mortgages which shall be taken by the said commissioners, shall be executed in the presence of two or more witnesses, who shall subscribe the same as such witnesses: and the substance thereof shall be minuted in a book by the said commissioners, to be by them kept for that purpose in their respective counties; for the filling up of which mortgage, and the making such minute, the borrower shall pay to the said commissioners the sum of one dollar, and no more: and which mortgage and minute shall be, and each of them are hereby declared to be matter of record; and an attested copy of the said mortgage, if in being, or of the said minute in case the said mortgage is lost, under the hands and seals of the said commissioners, shall be good evidence of the said mortgage in any court within this state.

Duty of commissioners in taking security, receiving payments, &c.

Release of mortgage.

Fees therefor.

Principal moneys to be re-loaned.

Moneys, books, &c. to be delivered to new commissioners on oath.

§ 28. The said commissioners, at the time of the lending of any of the said moneys, shall take the security for the same by this act required to be taken; and for every sum paid to them they shall give to the person paying the same a receipt, and shall enter one minute of such payment on the back of the mortgage, and another minute thereof in the book of accounts by them to be kept, and that without any fee or reward; and when the whole of the principal and interest due on any mortgage shall be paid to the said commissioners, they shall, if required, give the party making the payment, a release of the mortgage, and shall tear from the same the name and seal of the borrower, and shall make an entry on the margin of the mortgage, and in the margin of the minute made thereof, of the time such release was given, for which release the releasee shall pay the sum of fifty cents, and no more; and whenever any of the said principal moneys shall be paid in as aforesaid, the said commissioners shall, at the end of the annual meeting at which such payment shall be made, compute the whole amount of the principal moneys so paid, and shall then immediately loan out the same in like manner, and upon the like security, as is hereinbefore provided.

§ 29. Whenever a commissioner shall have been appointed in the place of a former commissioner, and shall have taken the oath of office and filed the bond required by this act, such former commissioner, his executors or administrators, shall, upon demand, deliver to the commissioner so appointed in his place, all the moneys, books and papers that were in such former commissioner's custody belonging to his office, upon oath, before any judge of the court of common pleas; and in

case any such commissioner, or his executors or administrators, shall delay or refuse to make such delivery on oath when demanded as aforesaid, the bond of such former commissioner shall be forfeited.

§ 30. If any borrower shall neglect to pay yearly, and every year, on the first Tuesday of October, or within twenty-three days thereafter, on one of the days on which the commissioners aforesaid are by this act directed to attend their respective offices, the yearly interest due on his mortgage, and also the principal moneys loaned to him when due, then, and in either of these cases, the commissioners of the county where the lands mortgaged by the borrower are situated, shall be seised of an absolute and indefeasible estate in fee in the said lands, to them, their successors and assigns, to the uses in this act mentioned, and the mortgagor, his or her heirs or assigns, shall be utterly foreclosed and barred of all equity of redemption of the mortgaged premises, any law, usage, custom or practice in courts of equity to the contrary notwithstanding. But the mortgagor, his or her heirs or assigns, shall be entitled to retain possession of the mortgaged premises until the first Tuesday of February thereafter, and to redeem the same as hereinafter provided.

When commissioners to be seised of fees of mortgaged premises.

Mortgagor to hold possession until sale.

5 N. Y., 146; 6 B., 38; 7 H., 431; 36 B., 661.

§ 31. The said commissioners shall, within eight days after the last Wednesday of their attendance as aforesaid, yearly and every year, cause an advertisement to be fixed up at not less than three of the public places of the county where the premises are situated, containing the description of the lands mentioned in the several mortgages foreclosed as aforesaid, and giving notice in such advertisement that on the first Tuesday of February then next, such lands will be sold at the court-house of the respective counties where the said lands are situated, at public vendue, to the highest bidder; and the said commissioners shall also cause a copy of such advertisement to be published in at least one of the public newspapers, printed in the county, if any such there be, and if there be no newspaper published in such county, then in the nearest paper to said county, successively once in each week, until the day of sale. They shall also serve such advertisement at least fourteen days prior to the time therein specified for the sale, upon the mortgagor, or his personal representatives, or upon his executors or administrators, if any shall have been, at the day of the date of such advertisement, duly appointed by the proceedings of any court, and upon such persons as shall by the records of the office of the county clerk of the county in which said premises or any part thereof are situated, appear to be grantees, lessees or mortgagees of the said premises or of any part thereof, and whose conveyance, mortgage, or other evidence of right or title, shall be upon said records at the date of the first publication

Mortgaged premises, when to be advertised.

Service of notice of foreclosure.

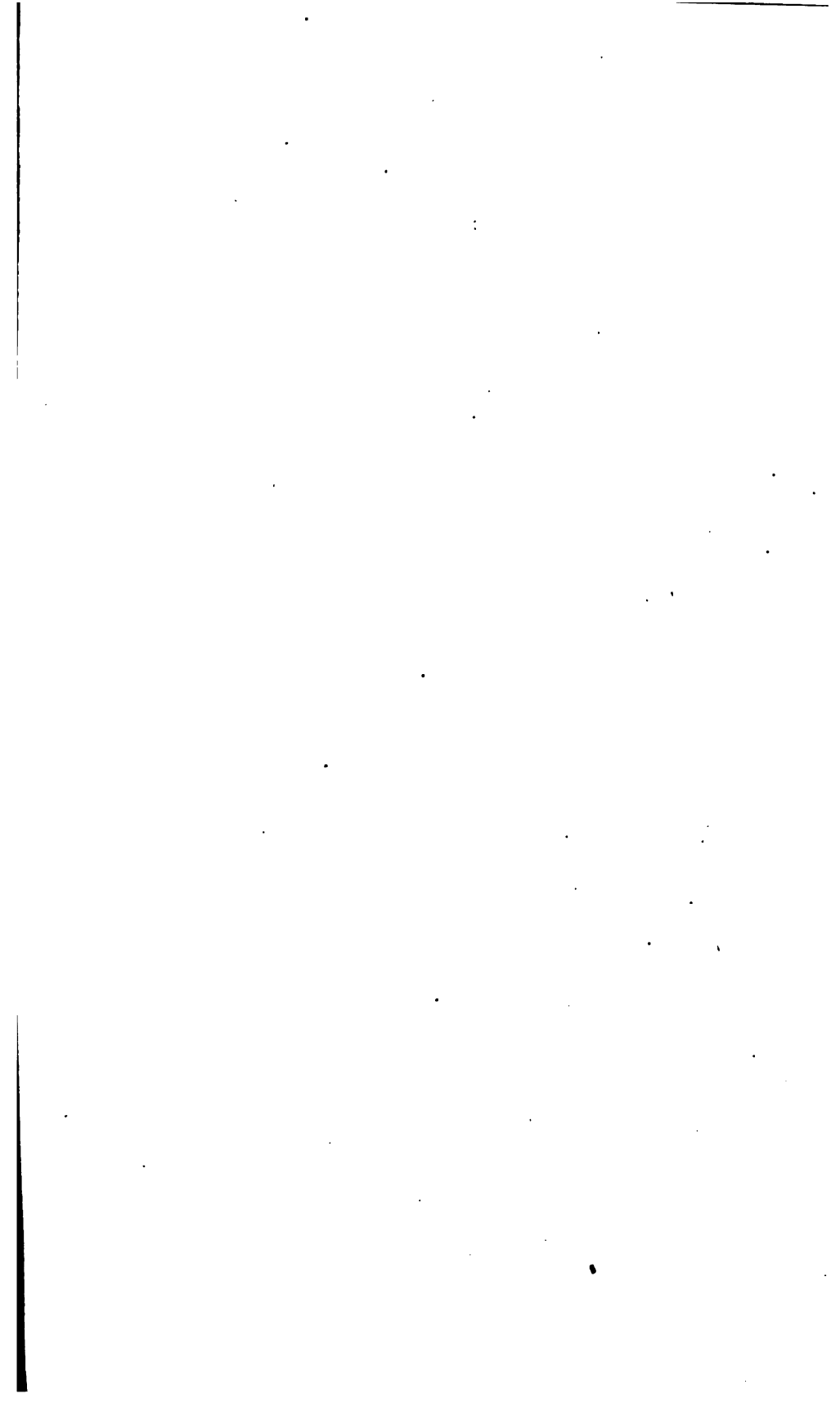
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of the said advertisement, and upon all persons having a lien or incumbrance upon the said premises or upon any part thereof, by judgment or otherwise, subsequent to such mortgage, and which lien or incumbrance shall, on the day of the date of said advertisement, appear upon the records of the office of the county clerk of the county in which said premises or any part thereof are situated. Such service shall be made by delivering a copy of such advertisement personally to the person to be served, or by leaving a copy of said advertisement at the dwelling-house of the person to be served, in charge of some person then residing therein, who shall have attained the age of twenty-one years, or by enclosing and sealing the copy of such advertisement in an envelope and plainly addressing the said envelope, on the outside thereof, to the person to be served, by his name, as the same appears on said records, at the post-office nearest to his last known place of residence, and by depositing the same so enclosed and sealed in the said envelope, in the post-office nearest the residence of the commissioner or commissioners making such service, and by prepaying the postage thereon; and when the service is made personally or by leaving at the dwelling-house as aforesaid, the same shall be made at least fourteen days before the day of sale in such advertisement mentioned; and when the service is by depositing in the post-office as aforesaid, the same shall be made at least twenty-eight days before the day of sale mentioned in the said advertisement.

As amended by Laws of 1863, ch. 73. Post, vol. 6, p. 59. 3 Pai, 390.

Duty of
commissioners.

§ 32. The said commissioners of the respective counties aforesaid shall, on the first Tuesday of February, yearly, expose the lands described in the mortgages foreclosed as aforesaid, to sale at public vendue, and upon such sale they shall convey the said lands to the highest bidder or bidders; and they shall also deliver to such bidder or bidders affidavits of the publication, fixing up and service of the said advertisement; and the purchaser or purchasers thereof shall, if the said advertisement shall have been published and fixed and served, as herein required, hold and enjoy such estate in the said lands as was conveyed to the said commissioners by the said mortgages, clearly and absolutely discharged of and from all benefit and equity of redemption, and all other liens or incumbrances made or suffered after the execution of such mortgage by the mortgagor, his heirs or assigns, and such purchaser or purchasers shall pay the commissioners for drawing and executing such conveyance, the sum of one dollar, and said affidavit of the publication of said advertisement shall be made by the publisher of the newspaper in which the same was inserted, or by his principal clerk, or by his foreman; and said affidavit of such service of such advertisement and of the fixing up of the same, shall be made by any



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person who made the service or who fixed up the said advertisement.

As amended by Laws of 1863, ch. 73. Post, vol. 6, p. 60.

When commissioners
to enter
mortgaged
premises.

§ 33. When any lands mortgaged to the said commissioners according to this act shall be exposed for sale as aforesaid, and no person shall bid at such sale, for the said lands, a sum equal to the amount due on the mortgage for principal and interest, and the expenses of the advertisements and the sale, or if any person to whom any such lands shall at any such sale be struck off, shall not pay for the same, then and in every such case the said commissioners shall enter into and take possession of the said lands and premises, and let the same upon the best terms they can obtain for the benefit of the state, until the third Tuesday in September then next, and shall on the same third Tuesday in September, sell the said lands and premises at public vendue to the highest bidder, giving at least six weeks' previous notice of such sale in the manner directed by the two next preceding sections of this act; and if upon such sale no person shall bid, or offer to give for the said lands and premises a sum equal to the amount due on the mortgage for principal and interest, including all costs and expenses, or if any person to whom any such lands and premises shall at any such sale be struck off shall not

And let
the same.

When to
sell.

pay for the same, then and in every such case the said commissioners shall bid therefor in behalf of the people of this state, a sum not exceeding the amount at which the said lands shall be appraised by the appraisers hereinafter mentioned, in case such bidding shall be necessary to prevent the sale of such premises for a less sum; but if the mortgagor, or his or her heirs or assigns, shall, at or before the sale of the mortgaged premises, pay to the said commissioners all such sums of money as shall be due and payable on such mortgage on the first Tuesday of October then next, for principal and interest, and costs and charges of foreclosure as prescribed by this act, together with the charges of advertising the same, and the fees paid for searches, and for taking affidavits, and the compensation of the said commissioners for serving such advertisements, then the title in fee to the said mortgaged premises shall revert to and reinvest in the said mortgagor, his or her heirs or assigns, and the said commissioners shall accept the said sums of money, and the costs and charges aforesaid, and permit the said owner, or his or her heirs or assigns, to take possession of the said mortgaged premises, and to hold the same until default shall be made in payment of any further sum on the said mortgage. The commissioners appointed by virtue of this act, and their successors, in making any sale of any mortgaged premises by virtue of this act, shall not directly or indirectly be interested in the purchase of the mortgaged premises so sold, or any part thereof. All purchases made contrary to the provisions of this section shall be void.

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When to bid in premises for the state.

On what condition title to revert to mortgagor.

Commissioners not to be interested in purchase.

As amended by Laws of 1863, ch. 73. Post, vol. 6, p. 61. 8 Pal., 633; 7 H., 431.

§ 34. Whenever any lands shall be advertised for sale by the said commissioners by virtue of this act, it shall be lawful for them at any time before the premises are actually struck off, to postpone the sale at their discretion, for the purpose of inquiring into the value of the premises, and to employ such person or persons as they shall select to appraise the same.

Sale may be postponed to ascertain value of premises.

§ 35. The persons employed by the said commissioners to make any such appraisement, shall receive a reasonable compensation for the same, to be settled and allowed by the comptroller, and to be paid out of the interest of the moneys to be loaned in pursuance of this act.

Compensation of appraisers.

§ 36. If the said lands are appraised at a sum equal to or exceeding the amount due on the mortgage given on said lands to the said commissioners, including all costs and expenses, the said commissioners on the sale of said premises, shall bid therefor in behalf of the people of this state to the amount of the moneys due and costs, in case such bidding shall be rendered necessary to prevent the sale of such premises for a less sum.

When commissioners to bid amount due the state.

§ 37. If the said premises are appraised at a less sum than the amount due as aforesaid, the said commissioners shall in like manner bid to the amount of such appraisement, and no more; and all purchases of mortgaged premises made by said commissioners at any mortgage or other sale had under their direction, shall be in the name of the people of this state.

When to bid amount of appraisement.

PART I.

Mortgagor
to be credited
amount
of bid.

§ 88. Whenever any mortgaged premises shall be struck off to the said commissioners for any amount less than the amount of mortgage money, interest and costs, no greater sum shall be credited to the mortgagor or any other person, on account of such sale, than the amount bid for the premises sold, deducting therefrom all costs and charges of sale.

Moneys
received on
sale, how
disposed of.

§ 89. The money for which the mortgaged premises are sold shall upon the sale thereof, be paid to the said commissioners, out of which they shall retain in their hands the amount of the principal then due on the said mortgage, together with the interest which would have been due thereon on the first Tuesday of October next thereafter, if such sale had not been made, and also the expense of the advertisements of sale, and the fees paid for searches, and taking affidavits, and their compensation for serving advertisements; and the remainder, if any, the commissioners shall pay to the mortgagor, his or her heirs or assigns; and if the purchaser of the said mortgaged premises offers to borrow the principal sum or sums that is or are paid by him or her for said premises, and if the said commissioners are satisfied that the security offered to be given by such purchasers for such loan conforms in all respects to the requirements of this act, such purchaser shall be preferred to any other borrower; and the said commissioners shall not be obliged for the purposes of this section to take notice of any assignee of the mortgagor, unless such assignee serves a notice of his right in writing upon the said commissioners at or before the time of sale, which notice the commissioners shall enter upon the mortgage and in the minute thereof whenever required by such assignee, such assignee paying twenty-five cents for such entry, and the assignees of the mortgagor shall be preferred according to the priority of their entries of such notice; and on such sale the said commissioners shall retain in their hands no more than the amount of the principal then due on the mortgage, together with the interest which may have accrued thereon, and the fees paid for searches, and taking affidavits, and their compensation for serving said advertisements; and if any excess over and above the principal, interest and cost aforesaid shall have been paid to the said commissioners under the provisions of this section, the comptroller is hereby authorized and required to cause such excess to be refunded to the mortgagor, his or her heirs or assigns.

As amended by Laws of 1863, ch. 73. Post, vol. 6, p. 61.

When
com's to
prosecute
mortgagor.

§ 40. If after any lands are mortgaged according to the directions of this act, there should in the judgment of the said commissioners be good grounds (which they shall insert in the minutes of their proceedings) for believing that the mortgagor had no good right or title to the premises mortgaged, or had otherwise broken the covenants contained in his mortgage, so that the moneys, or any part thereof, advanced in loan upon the credit of the mortgaged premises were in jeopardy, it shall and may be lawful for the said commissioners, and they are hereby required to commence an action or actions of debt or covenant upon the said mortgage against the said mortgagor, his or her heirs, executors or administrators, and the same to prosecute to judgment by all lawful ways and means whatsoever, in any court of record for the recovery of the whole moneys lent upon the mortgage, and the interest then due, and which also should become due for three months next following the judgment, with costs; and the court in which such actions are brought, and the judges or justices thereof in vacation are hereby authorized and directed to give such short day for the rules of pleading therein, that judgment or a trial and final determination may

be had the first term of the court after the term of such court at which the defendant first appeared to the same action.

§ 41. The offices of the said commissioners shall be kept at the court-houses of their respective counties; and where there are two court-houses in the county, at such court-house as the said commissioners shall select; and where there is no court-house in the county, then at the place where the court of common pleas shall be held in the same county, or at some convenient place near the same; and the said commissioners shall, as soon as they shall have taken the oath of office and filed the bond required in this act, give such public notice of the first day of their attending their offices for the purpose of receiving applications from borrowers, as is hereinbefore prescribed and required; and they shall duly attend the same on that first day, and on every Tuesday and Wednesday in every week, for the space of four weeks thereafter, if such attendance be necessary.

Offices of
the com's
where kept.

When to
give notice
of first
meeting,
&c.

§ 42. If any person shall falsely swear or affirm in any of the cases where an oath or affirmation is required to be taken by this act, or shall wilfully and knowingly act contrary to any oath or affirmation he has taken in pursuance of this act, such offence shall be deemed to be perjury, and the offender, upon conviction thereof, shall suffer the like pains and penalties as in cases of wilful and corrupt perjury.

False
swearing
declared
perjury.

§ 43. The said commissioners shall permit any person, at reasonable times, to search and examine their book of mortgages, and any other book required to be kept by this act, in their hands and custody, upon paying twelve and an half cents for the search; and the execution of the respective mortgages, and their entry or being placed in the books of mortgages of the said commissioners shall have the like lien, priority, operation and effect as if such mortgages had been duly recorded in the book of mortgages in the office of the clerk of the county in which the mortgaged premises are situated.

Books of
com's may
be ex-
amined.

Mortgages
when to
have the
effect of a
record.

§ 44. All mortgages shall be taken by the commissioners by filling up one of the blanks in the book of mortgages to be provided by such commissioners. And no mortgage shall be defaced or torn out of such book; but when the mortgagor pays the whole principal and interest due on the mortgage, the seal and name of the mortgagor shall be torn off; and the commissioners shall proceed in taking the mortgages at the commencement of the book of mortgages, numbering the mortgages as they are taken, and they shall insert the mortgagor's name and the number of his mortgage in an alphabet to be prepared and placed in the book under the letter answering to the mortgagor's surname.

Duty of
com's in
taking and
cancelling
mortgages.

§ 45. The said commissioners shall, in a proper book to be provided for that purpose, minute the substance of each mortgage, that is, the number thereof, the date, the mortgagor's name, the sum lent, and the boundaries of the lands mort-

Minute
book how
kept.

PART I.

What entries to be made in it.

gaged; and whenever one of the commissioners has the custody of the book of mortgages, the other shall have the custody of the said minute book; and the mortgagor, for his satisfaction, may examine, or see the minute examined with the original mortgage, and shall, together with the subscribing witnesses, sign such minute.

§ 46. The said commissioners shall insert the minutes of their proceedings in such minute book, as follows: First, the day they meet, place, hour, and commissioners present: Second, if any one is absent, they shall at their next meeting minute the cause of his absence: Third, they shall enter the hour that every one applies for the loan of money, and the sum he applies for: Fourth, they shall enter the reasons why a prior applicant did not receive the money according to his application, and the substance of all examinations as to titles and value: Fifth, they shall enter the monies received under this act: Sixth, on the last day of their first days of meeting for receiving moneys yearly, they shall enter whose mortgages are foreclosed, and the number and sums of them: Seventh, they shall enter the orders for and copies of the advertisements for sale and places at which they are set up, and the persons names who set them up: Eighth, they shall enter the names of the purchasers of lands and the prices for which such lands sold, and the payment of the overplus to whom it belongs, with the time of and witnesses to such payment: Ninth, in case any principal moneys or a part thereof are paid in before the times of payment specified in the mortgages, the whole amount of such principal sums so paid in, shall be entered in the said book: Tenth, they shall enter also the cause of all suits, and the information they have received in relation thereto, and from whom, at length, or if too long, they shall minute the substance.

Supervisors may require additional security of com's, see § 53.

§ 47. Whenever the supervisors of any county in this state shall apprehend that any of said commissioners, or their or either of their sureties, are likely to fail, it shall be their duty to require such commissioner to give such additional security as they may deem reasonable and satisfactory.

Commissioners may require additional security of mortgagor.

§ 48. Whenever the said commissioners shall consider it necessary to require additional security for the purpose of securing the payment of moneys loaned by them or their predecessors in office, either on account of the reduction in value of the premises mortgaged, or on account of any substantial defect in the description of such premises in the original mortgage, they shall have power and it shall be their duty to demand such additional security as they shall think requisite, from the mortgagor, his representatives or assigns, and take the same in like manner as original mortgages are directed to be taken by them; and such additional securities shall be proceeded upon in case of default in payment in the same manner as original mortgages.

§ 49. In case any mortgagor, his heirs or devisees, who shall be in the actual possession of the mortgaged premises, shall neglect or refuse to give such additional security as may be required by such commissioners for the purpose of supplying any substantial defect in the description of the mortgaged premises, the said commissioners may file a bill in the court of chancery to compel such mortgagor, his heirs, or devisees, to supply such defects in such manner as the chancellor shall deem equitable; and in every such case the chancellor shall have power to decree costs against the defendant, if in his opinion costs ought to be decreed.

CHAP. IX.
Proceeding
where mort-
gagor refuse
to give
additional
security.

§ 50. It shall be the duty of the said commissioners to exhibit to the board of supervisors of their respective counties, at each annual meeting of the board, all the mortgages and other securities taken by them or their predecessors in office, for moneys loaned under and in pursuance of this act, together with their books of accounts, minutes and vouchers, in order that the board of supervisors may ascertain whether the moneys committed to the charge of such commissioners have been loaned and continued to be kept as loans according to law.

14 B., 335.

Com's to
exhibit
mortgages,
&c. to board
of supervi-
sors.

§ 51. It shall be the duty of the board of supervisors, at each annual meeting of the board, to carefully examine all such mortgages and securities, accounts and minutes so to be annually exhibited to them, in reference to the state in which they shall find the said moneys, and to their safety and the sufficiency of the securities taken for the payment thereof, and to give to the said commissioners such directions as to taking additional security from the borrowers as the said board of supervisors shall deem proper and necessary: And the said board shall forthwith certify, under their hands, the state in which they shall find the said moneys, and the result of such examination, and what directions they have given to the said commissioners as to their taking such additional security, and to transmit such certificate by mail to the comptroller.

Supervisors
to examine
mortgages
and report
to comp-
troller.

§ 52. If it shall appear to the comptroller, from any such certificate, that the whole of the moneys under the charge of the said commissioners have not been loaned as required by law, it shall be his duty to order suits to be commenced on the bonds of the said commissioners so found in default. And it shall also be his duty to report such commissioners, or any or either of them, being in default, to the governor, in order that they may be removed and others appointed in their stead.

Comptrol-
ler's duty
when com-
missioners
are in
default.

§ 53. Whenever any county in which loans of moneys may have been made pursuant to this act, shall hereafter be divided, and default shall be made in the payment of principal or interest of any such loan, the said commissioners under whose care any mortgage given for any such loan may be, shall have power to proceed to a sale of the mortgaged premises pursu-

How sales
to be made
and notices
given where
county is
divided.

PART I.

ant to the provisions of this act, whether the mortgaged premises shall be situated within the county of such commissioners or not; and in such cases all notices required to be affixed or published, shall be affixed and published in the county in which the mortgaged lands shall lie, and the sale shall be made in that county.

When
comptroller
to credit
commis-
sioners
with
amount of
mortgage.

§ 54. Whenever any mortgaged premises shall be bid in by the said commissioners for an amount less than the mortgage money, interests and costs due, it shall be the duty of the comptroller, upon satisfactory proof being made to him that nothing more can be collected upon any covenant in the mortgage, or upon any bond or other security for the mortgage debt, and that the deficiency has not arisen from any negligence or fault of the commissioners, to credit them with the full amount due on the mortgage at the time of sale, upon their delivering to him the original mortgage and all other securities for the mortgage debt.

Books of
mortgages
to be de-
posited in
clerk's
office.

§ 55. It shall be the duty of the said commissioners to deposit their books of mortgages in the clerk's offices of the respective counties for which they were appointed, there to remain at all times, except when the said commissioners shall be in actual session for the despatch of their official duties.

Form of
mortgage.

§ 56. The mortgages to be taken by the commissioners by virtue of this act, shall be in the form following, to wit: "This indenture, made the day of in the year of our Lord between of in the county of of the first part, and the commissioners for loaning certain moneys of the United States, of the county of the second part, witnesseth: That the said for and in consideration of the sum of to well and truly paid by the commissioners aforesaid, hath granted, bargained, sold, aliened, released, enfeoffed and confirmed, and by these presents do grant, bargain, sell, alien, release, enfeoff and confirm, to the commissioners aforesaid, and their successors and assigns for ever, all that together with all the hereditaments and appurtenances to the same belonging, or in any wise appertaining, and all the estate, right, title, interest, claim and demand whatsoever of the said of, in and to the above bargained premises, and every part thereof: To have and to hold the above bargained premises, and every part thereof, with the appurtenances, unto the said commissioners, and their successors and assigns forever, and for the uses and purposes mentioned in an act of the Legislature of the State of New-York, entitled 'An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New-York for safe keeping:' Provided always, and these presents are upon this condition, that if the said heirs, executors, administrators or assigns, shall pay, or cause to be paid, to the said commissioners, the interest of the said sum of at the rate of seven per cent per annum, on the first Tuesday of October,

yearly and every year, and shall also pay to the said commissioners, the said principal sum of with all the interest then due for the same, on the day of unless the same shall be by them sooner demanded; and shall also pay the said principal moneys if sooner demanded, the one-half part thereof after a previous notice of one year, and the remainder after a previous notice of two years, then the above grant, bargain and sale, and every part thereof, shall be void; but if the failure be made in any of the payments above mentioned, then the above bargain and sale is to remain in full force and virtue, and the said for heirs and assigns, hereby agree to be absolutely barred of and from all equity of redemption of the premises after the expiration of twenty-two days after such failure; and the said for heirs, executors, administrators and assigns, hereby covenant, grant and agree, to and with the said commissioners and their successors, well and truly to pay to them the interest of the said sum of at the rate aforesaid, annually, on the first Tuesday of October in every year, and the said principal sum of with all the interest then due thereon, on the day of unless the same shall be by them sooner demanded; and if the said principal moneys shall be sooner demanded, then to pay the same to the said commissioners, or their successors, the one-half after a previous notice of one year, and the remainder after a previous notice of two years; and that at the time of sealing and delivering of these presents, the said lawfully seised of the above bargained premises, of a good, sure, perfect, absolute and indefeasible estate of inheritance, and that the same now are free and clear of and from all former and other gifts, grants, bargains, sales, liens, judgments, recognizances, dowers, rights of dower, and other incumbrances whatsoever; and also, that the above bargained premises, upon the sale thereof, pursuant to the directions of the said act, will yield the principal and interest aforesaid, remaining unpaid at the time of such sale, and until the first Tuesday of October next after such sale, together with the charges of such sale. In witness whereof, the said ha hereunto set hand and seal, the day and year above written. Sealed and delivered in the presence of us."

§ 57. The deeds to be given by the commissioners for any lands sold by them by virtue of this act, shall be in the form following to wit: "This indenture, made the day of in the year of our Lord one thousand eight hundred and between the commissioners for loaning certain moneys of the United States, of the county of of the first part, and of the second part, witnesseth: That the said commissioners, for and in consideration of the sum of to them in hand paid by the said whereof they acknowledge the receipt, and discharge the said heirs, executors and administrators thereof forever, have pur-

Form of
deed to be
given by
commis-
sioners.

PART I.

suant to a law of the state of New-York, entitled 'An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New-York for safe keeping,' granted, bargained, sold, released, enfeoffed and confirmed, and by these presents do grant, bargain, sell, release, enfeoff and confirm unto heirs, and assigns, all that together with all the hereditaments and appurtenances whatsoever to the same belonging, or in any wise appertaining, and all the estate, right, title, interest claim and demand whatsoever of the said commissioners, and their successors, to the above bargained premises, and every part thereof, to have and to hold the above bargained premises, and every part thereof, with the appurtenances, to the said heirs and assigns, forever. In witness whereof, being the said commissioners, have hereunto set their hands and seals, the day and year above written. Sealed and delivered in the presence of ." To which deed the said commissioners shall affix their seals and respectively subscribe their names in presence of two witnesses. 41 B., 335.

Commissioners refusing to give additional security, to be reported to governor, see § 47.

§ 58. If any of the said commissioners shall neglect or refuse, for the space of ten days after the receipt of notice, to give such additional security as shall at any time be required by the supervisors of the county for which such commissioner was appointed, or by the comptroller, such supervisors, or the comptroller, as the case may be, shall report the fact, together with their reasons for requiring such additional security, to the governor, in order to his removal.

Comptroller to make loans and issue stock to meet calls of United States government.

§ 59. Whenever the repayment of the moneys mentioned in the first section of this act, or any part thereof, shall be demanded by the secretary of the treasury of the United States, the comptroller shall be authorized, in order to meet such calls of the secretary of the treasury without delay, from time to time, as may be necessary, to make special loans on state stock on the most favorable terms which it shall be in his power to obtain, to be repaid out of the collections to be made of the said moneys authorized to be loaned by this act, and the comptroller for that purpose is hereby authorized to issue certificates of stock upon the credit of the state.

Losses of principal to be charged to interest.

§ 60. If any loss shall happen in the loans of the moneys mentioned in the first section of this act, such loss shall be a charge on the interest which shall be derived from the loans of said moneys, and paid to the treasurer of this state as herein before directed.

Moneys received by commissioners for annual interest to be deposited to credit of state treasurer.

§ 61. The moneys which may from time to time be paid to the said commissioners, on account of interest, after deducting therefrom the per centage allowed for their services, shall in all cases where it can, in the opinion of the comptroller, conveniently be done, be deposited in some safe bank to the credit of the state treasurer, and a certificate of the said deposit shall without delay be transmitted to the comptroller by the commissioners.

§ 62. It shall be the duty of the comptroller to prepare the necessary forms for carrying this act into effect, and to give such instructions to the commissioners appointed under it, and to the boards of supervisors, as may be necessary to ensure a faithful discharge of the duties of the commissioners, and a full compliance with all the requirements of this act.

CHAP. IX.
Comptrol-
ler to
prepare
forms, &c.

§ 63. It shall be the duty of the comptroller and treasurer to keep the accounts of the moneys mentioned in the first section of this act, in the books of their respective offices, separate and distinct from the state funds, and in such manner as to show the amount of principal belonging to the United States, the amount received for interest, and the amount paid from the annual revenue, and the objects to which the same has been applied.

Accounts of
United
States
deposits
fund to be
kept sepa-
rate from
state fund.

§ 64. No county clerk, or any other person, shall be permitted to charge or receive for services rendered in making searches preparatory to making the loans authorized by this act, in any one case, a sum exceeding three dollars; and no clerk of the supreme court shall be permitted to charge or receive for the like services, in any one case, a sum exceeding two dollars; but nothing in this section contained shall authorize any county clerk, or any other person, to charge or receive for such services the said sum of three dollars, nor any supreme court clerk the said sum of two dollars, unless their fees as established by law authorize them so to do.

Fees of
clerks for
searches.

§ 65. The interest on the moneys authorized to be loaned by this act, which shall be paid into the treasury, except as is hereinbefore mentioned, shall be applied as the legislature shall hereafter direct.

Interest of
moneys
how ap-
plied.

See Laws of 1864, ch. 553. Post, vol. 6, p. 303.

CHAP. 360.

AN ACT in relation to state loans.

PASSED May 9, 1837.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be lawful for any bank within this state to subscribe to any of the loans which the commissioners of the canal fund are authorized to make on account of the Chenango, Black River and Genesee Valley canals, and from time to time to sell and dispose of any stock issued on account of said loans, any clause, matter or thing in the acts incorporating the same to the contrary notwithstanding.

Banks may
subscribe
to loans.

CHAP. 237.

AN ACT to appropriate the income of the United States deposite fund to the purposes of education and the diffusion of knowledge.

PASSED April 17, 1838.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Income
how to be
expended.

§ 1. The income arising from the investment of the moneys deposited by the United States with the state of New York, according to the act of congress, entitled "An act to regulate the deposite of the public moneys," passed June 23, 1836, shall, after deducting the charges thereon, be expended for the purposes of education and diffusion of knowledge, in the manner hereinafter provided.

For com-
mon
schools
\$110,000
yearly.

§ 2. The sum of one hundred and ten thousand dollars of the income mentioned in the preceding section, shall be annually distributed to the support of common schools, in like manner and upon the like conditions as the school moneys are now or shall be hereafter distributed, except that, to entitle the several school districts within this state to their share of the common school fund, including the fund authorized by this act to be distributed, it shall be necessary for each school district, after the present year, to maintain a school to be taught by a qualified teacher for four months instead of three months as now required by law, which four months shall be kept by a qualified teacher or teachers, after obtaining a certificate of competency from the school inspectors; the first distribution to be made in the year one thousand eight hundred and thirty-nine.

Schools in
the city of
New-York.

§ 3. In each and every year hereafter, in which the corporation of the city of New-York shall raise, collect and pay over to the support of common schools in the said city the whole additional amount of tax which they are now authorized to impose and collect for such purposes by the two several acts, entitled "An act for the further support and encouragement of common schools in the city of New York," passed April 25, 1829, and April 18, 1831, then it shall not be required of the corporation of the said city and county to raise by tax any additional sum of school money equal to the amount then apportioned to the said city and county under this act.

The sum of
\$65,000 how
to be appro-
priated.

§ 4. The sum of fifty-five thousand dollars shall at the same time be annually distributed to the support of common schools, in like manner and upon the like conditions as the school moneys are now or shall hereafter be distributed, except that the trustees of the several districts shall appropriate the sum received to the purchase of a district library, for the term of three years and after that time for a library, or for the

payment of teachers' wages, in the discretion of the inhabitants of the district. Post, p. 441.

§ 5. The share of the moneys apportioned to or received in the city and county of New-York in pursuance of the last preceding section, shall be paid over in the manner by law directed as to other school moneys in the said city, and distributed by the commissioners of school money in the same proportion as the other school moneys among the several societies and schools entitled thereto, to be by them applied either to the support of school libraries or the payment of teachers.

In the city
of New-
York.

§ 6. Six thousand dollars of the income aforesaid shall, for the period of five years and until otherwise directed by law, be annually paid to Geneva college, to be applied exclusively by said college to the payment of its professors and teachers; and the like sum for the like time and the same purposes annually to the University of the city of New-York: the first payments to each of the above named institutions to be made on the first day of August, one thousand eight hundred and thirty-eight.

Geneva
college and
New-York
university
\$6,000 each.

§ 7. Three thousand dollars of the income aforesaid shall, for the period of five years and until otherwise directed by law, be annually paid to Hamilton college, to be applied exclusively by said college to the payment of its professors and teachers.

Hamilton
college
\$3,000.

§ 8. The sum of twenty-eight thousand dollars of the income aforesaid shall be annually paid over, on and after the first day of January next, to the literature fund, which, together with the sum of twelve thousand dollars of the present literature fund, shall be annually distributed among the academies in the several senatorial districts by the regents of the university, in the manner now provided by law. But no academy shall hereafter be allowed to participate in the annual distribution of the literature fund, until the regents of the university shall be satisfied that a proper building has been erected and finished to furnish suitable and necessary accommodation for such school, and that such academy is furnished with a suitable library and philosophical apparatus, and that a proper preceptor has been and is employed for the instruction of the pupils at such academy: And further, that the regents shall, on being satisfied that such building, library and apparatus are sufficient for the purposes intended, and that the whole is of the value at least of twenty-five hundred dollars, permit such academy or school to place itself under the visitation of the regents, and thereafter to share in the distribution of the moneys above mentioned, or any other of the literature fund in the manner now provided by law. The regents of the university may also admit to such distribution and to any other of the literature fund, any incorporated school, or school founded and governed by any literary corporation other than theological or medical, in which the usual

Literature
fund
\$28,000.

PART I.

academic studies are pursued, and which shall have been in like manner subjected to their visitation, and would in all other respects, were it incorporated as an academy, be entitled to such distribution.

Common
school
teachers.

§ 9. It shall be the duty of the regents of the university to require of every academy receiving a distributive share of public money under the preceding section equal to seven hundred dollars per annum, to establish and maintain in such academy a department for the instruction of common school teachers, under the direction of the said regents, as a condition of receiving the distributive share of every such academy.

Surplus in
capital of
common
school fund.

§ 10. The residue of the income aforesaid not otherwise appropriated, shall be annually added to the capital of the common school fund, and the comptroller is hereby authorized and required to invest such surplus moneys in like manner as he is now authorized to invest the moneys of the common school fund.

Surplus
how to be
invested.

§ 11. If the comptroller and superintendent of common schools shall deem it most advantageous for the fund to invest any such surplus moneys on bond and mortgage, the comptroller may cause the same to be loaned out by any of the commissioners of loans appointed according to the act passed April 4, 1837, chapter one hundred and fifty; and the comptroller in such case shall prescribe the form of the securities to be taken, the terms and condition of payment, and all other necessary regulations for the security of such loans.

Liabilities
of commis-
sioners of
loans.

§ 12. Such of the commissioners aforesaid as may be entrusted with the duty of loaning the moneys mentioned in the preceding sections, shall, in respect thereto, be subject to the like penalties, liabilities, forfeitures, restrictions and regulations, and receive the same compensations, as are now provided by law in relation to other moneys by them loaned; and shall, moreover, observe the regulations which the comptroller may prescribe, in pursuance of the last preceding section.

This act to
be sent to
each school
district.

§ 13. It shall be the duty of the superintendent of common schools to transmit a copy of this act to the clerk of each of the counties of this state, to be by him forwarded to each of the school districts therein.

CHAP. 381.

AN ACT concerning state mortgages.

PASSED May 7, 1839.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Duty of
attorney-
general.

§ 1. Whenever any mortgage, given to the people of this state, shall be proceeded upon by the attorney-general for the

purpose of foreclosure, if any person, having title to a part of the mortgaged premises, by conveyance from the mortgagor, shall have made and delivered to said attorney-general an affidavit, stating that such person has such title, and indicating with certainty the part of said mortgaged premises so claimed, it shall be the duty of said attorney-general, at the time appointed for the sale of said premises, first to sell such part of said mortgaged premises as has not been conveyed by said mortgagor; but in case the part so sold shall not produce enough to satisfy the amount unpaid on said mortgage and costs, then said attorney-general shall immediately proceed to sell such part or parts of said premises as may have been conveyed by said mortgagor, as aforesaid, and of which he has received notice as aforesaid; but where more than one part of said mortgaged premises, has been so conveyed as aforesaid, and of which notice has been given as aforesaid, the said attorney-general shall sell such parts in the inverse order of the dates of such conveyances, commencing with the part last conveyed by said mortgagor.

4 D., 254.

CHAP. 288.

AN ACT respecting state stocks, the commissioners of the canal fund, and the canal board.

PASSED May 13, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The commissioners of the canal fund are hereby authorized to contract, in behalf of the people of this state, with any bank in the city of New-York, to establish an office in such bank for the issue and transfer of certificates of any stock authorized by the laws of this state, for any loans made in its behalf by the Comptroller or the said commissioners, and to allow such compensation as shall be reasonable for conducting the said business. The said commissioners may change or terminate any such contract, and make other like contract with any bank in the city of New-York.

Office for
issue and
transfer of
stock to be
established
by a bank in
New-York.

§ 2. The bank with which any such contract shall be made, shall be responsible to the people of this state for the faithful and safe conducting the business of the said office, for the fidelity and integrity of the officers and agents of the bank employed in such office, and for all loss or damage which may result from any omission to discharge their duties, and for any improper or incorrect discharge of those duties.

Responsi-
bility of
such bank

§ 3. All certificates of stock heretofore or hereafter issued under the authority of this state for any loan made in its behalf, by the Comptroller or the said commissioners, shall be transferable only at the office so established, according to the

Transfers of
stock.

PART I.

regulations which shall be prescribed by the said commissioners, which regulations shall be obligatory on all persons having any interest in such certificates.

Certificates
of stock
how issued.

§ 4. Certificates of stock which shall be hereafter issued for any loan authorized in behalf of the people of this state, shall be prepared, numbered, signed and issued in the manner provided by chapter three hundred and twenty of the laws of eighteen hundred and thirty-one; except that the same may be in any sums not less than one hundred dollars, as the commissioners of the canal fund may direct; but in addition to the signature of the Comptroller, he shall cause such certificate to be sealed with his seal of office, and the same shall be countersigned by the president or cashier of the bank in which such transfer office shall be established, who shall also countersign the memorandum in the margin of the book from which any certificate shall be cut.

Regulations
of issues
and trans-
fers.

§ 5. The commissioners of the canal fund may prescribe such farther and other regulations as they may deem necessary to guard against the issue or transfer of any stock without authority, and for the keeping and rendering the accounts of the transactions of the transfer office, and for requiring vouchers of all transfers made; and upon the rendering of such accounts and vouchers, to furnish the bank with which such contract shall be made proper evidences thereof; and they, or any one of them, or any person deputed by them for that purpose, may, during the usual hours of business, inspect the books, papers and accounts in the said office.

Persons
may be de-
signated to
authorize
transfer of
stock.

§ 6. Any person, firm or company, or any number of persons, firms, or companies, holding or intending to hold and own any certificate of stock heretofore or hereafter issued under the authority of this state, may, by an instrument in writing signed by them and duly acknowledged or proved, in the manner required by law to entitle any conveyance of land to be recorded, designate and depute the person or persons who shall execute powers of attorney, authorizing the transfer of any such certificates of stocks, then or thereafter to be held and owned by such person or persons, firm or firms; and may, in like manner, modify or revoke such instrument; and all transfers of such certificates of stock made pursuant to powers of attorney, executed by the person so designated, shall be valid and effectual to pass the interest of all the parties who executed such instrument, in any certificates of stocks of which the said parties shall be or shall thereafter become the legal owners, until such instrument of modification or revocation, duly acknowledged or proved in manner aforesaid, shall be served at the transfer office, established under this act.

Designa-
tion not
revoked by
death or
withdrawal
of one of a
firm.

§ 7. If any such certificate of stock shall be held by any firm or company in hypothecation, pledge or deposit, or in trust for the benefit of others, and the purpose of holding the same shall be expressed in the instrument designating persons to

authorize the transfer of the said certificates, such instrument shall not be deemed revoked by the death or withdrawal from such firm of any member thereof, so long as such firm or company shall continue to exist.

§ 8. Powers of attorney to transfer any certificates of stock, acknowledged or proved before any officer authorized to take the proof of conveyances of land in this state, in the manner required to entitle such conveyance to be recorded, or acknowledged by a resident of any foreign country before a public notary of such country, by the party holding such certificate, or his agent, empowered or designated for that purpose, shall authorize the transfer of such stocks subject to the regulations that may be prescribed as herein before provided.

Powers of attorney to transfer stock, how verified.

§ 9. When it shall satisfactorily appear on due proof to the commissioners of the canal fund that any certificate of stock issued for any loan made in behalf of this state, has been lost or casually destroyed, they may authorize the issuing to the lawful owner of such stock a new certificate corresponding in date, numbers and amount with the certificate so lost or destroyed, but expressing on its face that the same is a renewed certificate; but no such renewed certificate shall be issued until good security be given to satisfy the lawful claim of any person or persons to the said original certificate, or to any interest therein. The proofs on which such renewed certificates are issued shall be filed with the clerk of the said commissioners, and they shall report annually to the legislature the number and amount of the renewed certificates so issued.

Certificates lost may be renewed.

§ 10. In case of the death of any person in any other state or foreign country, who at the time of such death was the lawful owner of any certificate of stock issued for any loan made in behalf of this state, if it shall appear by the decision of any tribunal of competent jurisdiction in the country of which such person was a resident at the time of his death, that such certificate has been devised to any person or persons, or that any relative of such deceased person has, by the law of such country, succeeded to his right and interest in such certificate, the commissioners of the canal fund may, in their discretion, authorize the issuing of new certificates of stock to the person or persons so entitled, on the delivery to them of the original certificates, and on security being given, if they shall require the same, to satisfy the lawful claim of any person or persons to the said original certificate or any interest therein. The death of the grantor of any power of attorney in any other state or country shall not be deemed a revocation of such power as against any bona fide assignee of such stock until actual notice of such death.

To whom certificates to be issued in case of death of foreign owner.

§ 11. Where letters testamentary shall have been granted on the personal estate of any person who at the time of his death was a resident of any other state or foreign country, and was the lawful owner of any such certificate of stock, by

Powers of attorney not revoked by death until notice

Certificates when to be issued to executors, &c.

PART I.

the competent tribunal of the country in which such person died, or where judicial evidence of the appointment by any such person of an executor of his personal estate, or of the appointment of any person having by the laws of such country the right to take possession of such personal estate shall be given to the commissioners of the canal fund, they may authorize the issuing of new certificates of stock to such executor or person in place of such original certificate upon the surrender to them of such original certificate; and on such security being given to them as they may require to satisfy the lawful claim of any other person or persons to the said original certificate, or to any interest therein.

Chief clerk
and other
clerks to
commis-
sioners of
canal fund.

§ 12. The commissioners of the canal fund shall appoint a chief clerk and such other clerks as may be necessary. The chief clerk shall also be clerk of the canal board, and shall receive the compensation, possess all the powers and perform all the duties of the second deputy comptroller as now provided by law; and the said office of second deputy comptroller is hereby abolished. The commissioners may allow and pay to the clerks employed by them, a compensation not exceeding three thousand dollars annually; which, with the salary of the chief clerk, shall be paid monthly out of the canal fund; and the names of the clerks employed and the sums paid to each shall be annually reported by the commissioners to the legislature.

Tolls to
proprietors
of Albany
pier.

§ 13. The portion of tolls collected on the Erie and Champlain canals directed by chapter one hundred and eleven of the Laws of eighteen hundred and twenty-three to be paid to the proprietors of the Albany pier, shall hereafter be paid directly by the commissioners of the canal fund out of the canal revenues.

Payment of
damages
for land,
&c, taken.

§ 14. Before the commissioners of the canal fund shall be required to pay any damages that may have been or may be awarded for any land, waters or streams taken by the canal commissioners and appropriated to the public use, they shall be furnished with a certificate from the canal commissioners that the land and premises for which such damages have been awarded, have been taken and appropriated for the public use, and have been taken possession of by the canal commissioners in behalf of the state.

Rates of
toll on
certain
articles to
be fixed by
canal board.

§ 15. The canal board may impose and fix such rates of toll upon those articles transported upon the canals of this state, which are not specifically enumerated in the report of the canal commissioners to the legislature of the twelfth of March, one thousand eight hundred and twenty-one, as shall in their judgment be most conducive to the improvement of internal trade and the interest of the state, and for that purpose may adopt higher or lower rates of toll than those specified in the said report, on the articles not specifically enumerated therein.

Certiorari
to supreme
court on

§ 16. The commissioners of the canal fund or the canal commissioners may in their discretion cause a certiorari to be

brought by the Attorney-General, in behalf of the state, from the determination of the canal appraisers upon any legal or constitutional question, to the supreme court, in cases where any damages have been or shall be awarded upon any claim for the deprivation of any right or pretended right, to the use of any water or water privileges or fisheries, or for the temporary use or diversion of any water by the canal commissioners.

§ 17. Such certiorari shall be brought within the time prescribed by law in reference to appeals in similar cases to the canal board, and the appraisers shall make a return in writing to the supreme court within the time and containing the same matters as required in cases of such appeals; and the supreme court shall determine such certiorari on such returns only, or upon such further returns as the said court may require, and may set aside such appraisal for want of jurisdiction in the appraisers, or for any error committed by them in such determination, except as to the amount of damages awarded, and may award costs in their discretion; and any party interested may bring a writ of error on the judgment of the supreme court on such certiorari, to the court for the correction of errors.

Proceed-
ings there-
on.

§ 18. Such certiorari or any judgment thereon shall not prevent an appeal, as now provided by law, to the canal board, in respect to the amount of any damages awarded by the canal appraisers.

Not to pre-
vent certain
appeals.

CHAP. 294.

AN ACT in relation to the United States deposit fund and the common school fund.

PASSED May 13, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever there shall be moneys in the treasury belonging to the capital of the school fund, the Comptroller, by and with the consent of the Superintendent of common schools, shall be authorized to invest the same on bond and mortgage, in such sums and in such manner as the Comptroller and Superintendent shall deem most advantageous to the fund.

Moneys
may be
loaned.

§ 2. Such loans shall be made by the commissioners of loans, appointed under the act authorizing the loan of certain moneys belonging to the United States deposit fund, chapter one hundred and fifty, of the Laws of eighteen hundred and thirty-seven; and the Comptroller shall prescribe the forms of the securities to be taken, the terms and conditions of payment, and all necessary regulations for the security and management of such loans.

Loans how
to be made.

PART I.
Additional
security
required of
commis-
sioners.

§ 3. The commissioners making such loans shall, on being required by the Comptroller, execute such additional bond, with sureties, for the due performance of their duties under this act, as may be prescribed by the Comptroller; which bond and securities shall be approved in the manner prescribed in the above mentioned act, chapter one hundred and fifty, of the Laws of eighteen hundred and thirty-seven; and all the provisions of the said act, of the act amending the same, chapter one hundred and ninety-three, of the law of eighteen hundred and thirty-eight, and of the act, chapter two hundred and thirty-seven, of the Laws of eighteen hundred and thirty-eight, shall, as to the loans therein authorized, and the duties, powers, liabilities, and compensation of the commissioners, be held to extend and apply to them, in regard to the loans authorized by this act.

Duty of su-
pervisors.

§ 4. The supervisors of the several counties in which such loans may be made, shall possess the same powers, and perform the same duties, in relation to loans under this act, as they are empowered and required to do in relation to loans made from the United States deposit fund.

Moneys
advanced
from gene-
ral fund to
be reim-
bursed.

§ 5. Whenever the principal of any moneys loaned under the acts relating to the United States deposit fund, shall be paid into the treasury, such sum shall first be applied to the reimbursement of the moneys advanced from the treasury on account of a loan from the general fund to the United States deposit fund, to make up the amount formerly directed to be lent in the several counties; which application of such payments shall continue until the above mentioned advance shall have been fully reimbursed, after which all other such payments shall be applied to the reimbursement of the loan made by the commissioners of the canal fund for the same purpose, in the manner now prescribed by law.

CHAP. 358.

AN ACT concerning payment of interest by railroad companies on loans of the state credit and for other purposes.

PASSED May 14, 1840.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Canal board
may depo-
site in cer-
tain bank-
ing asso-
ciations.

§ 2. The canal board may designate any banking association to receive the deposits of tolls or other canal moneys, provided such association shall carry on its business in a place convenient for such deposits, and shall comply with such terms as may be prescribed by the board, all the provisions of former acts in relation to the deposits of such moneys in banks, shall extend and apply to such deposits and banking associations.

CHAP. 218.

AN ACT relating to the examination of the treasurer's accounts, and the canal and banking departments.

PASSED May 25, 1841.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. All business relating to the canals of this state, and improvements connected therewith required to be performed by the commissioners of the canal fund, the canal board and the comptroller, shall be transacted in rooms appropriated for that purpose in the State-Hall to be denominated the Canal Department, and the chief clerk now authorized to be appointed by the commissioners of the canal fund, pursuant to the act passed May 13, 1840, shall be known and recognized in law as chief clerk of said department.

Canal department.

§ 2. The accounts of the treasury shall be annually closed on the thirtieth day of September, and shall be examined during the months of October, November and December in each year by a joint committee consisting of one member of the senate and two of the assembly, to be appointed by ballot under concurrent resolution of the two houses of the legislature at the session previous to said time of examination in each year; the said committee shall during the same time examine into the condition of the banking department, pursuant to the act passed May 14, 1840.

Treasurer's accounts when to be closed and examined annually.

§ 3. Such committee shall examine the accounts and vouchers relating to all moneys received into and paid out of the treasury, during the year ending on the thirtieth of September preceding such examination, and shall certify and report to the legislature at its next session the amount of moneys received into the treasury during such year, the amount of moneys paid out of it, during the same period, by virtue of warrants drawn on the treasury by the Comptroller; the amount of moneys received by the treasurer who shall then be in office at the time of such examination, when he entered on the execution of the duties of his office; and the balance in the treasury on the thirtieth day of September preceding such examination.

Duty of committee to examine treasurer's accounts.

§ 4. Such committee shall also compare the warrants drawn by the Comptroller on the treasury during the year ending on the said thirtieth day of September preceding, with the several laws under which the same shall purport to have been drawn; and shall in like manner certify and report whether the Comptroller had power to draw such warrants; and if any shall be found which in their opinion he had no power to draw, they shall specify the same in their report, with their reasons for such opinion.

Warrants to be compared with laws.

PART I.
Accounts of
commissioners of
canal fund
to be ex-
amined.

§ 5. Such committee shall also examine the accounts of the commissioners of the canal fund, of the canal commissioners, of the superintendents of repairs and collectors of tolls, and all other accounts kept in the canal department, and report to the next legislature the condition of those accounts and whether the receipts and disbursements have been made according to the provisions of law, and also to report the receipts and disbursements on account of each and every canal and improvement respectively.

Majority of
committees
to act.
Pay of com-
mittees.

§ 6. The major part of the members of such committee may perform all the duties required by law of the committee.

§ 7. The members of the committee appointed by this act, shall receive the same compensation from the treasury for services and travel as is allowed to members of the legislature.

Repeal.

§ 8. Sections fourteen, fifteen, sixteen, seventeen and eighteen of Title four, Chapter eight of the first Part of the Revised Statutes are hereby repealed.

CHAP. 238.

AN ACT to regulate the accounts between certain funds belonging to the State.

PASSED May 25, 1841.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Deficiencies
in revenues
of lateral
canals how
to be paid.

§ 1. Any deficiencies in the revenues of the lateral canals to pay the interest upon the stocks issued on account of such canals respectively, and the expenses of superintendence and repair thereof, now by law chargeable to the general fund, shall hereafter be paid and provided for by the commissioners of the canal fund from the surplus revenues of the Erie and Champlain canals, which may remain after paying the expenses of repairs and superintendence of those canals, and the interest on the stock issued for the enlargement.

Canal ap-
praisers to
be paid out
of canal
revenues.

§ 2. The compensation provided by law to canal appraisers, the expense of their clerk hire, of postage, of recording transcripts, of the entry of their decisions, and any other expense necessarily incurred by them shall hereafter be paid by the commissioners of the canal fund out of the canal revenues, and shall be charged to the several canals on whose account such expenses shall be incurred.

Allowance
for making
returns to
appeals.

§ 3. The commissioners of the canal fund may allow and pay out of the canal revenues, to any person who may have been a canal appraiser, a reasonable compensation for making returns to appeals after he shall have ceased to hold such office.

Tolls on
Oneida
Lake canal
and feeder.

§ 4. The tolls collected on the Oneida Lake canal and feeder, and on boats and property conveyed on that part of

the Seneca river along which a towing path has been constructed by the State, shall constitute a part of the canal fund.

§ 5. The commissioners of the canal fund shall pay to the treasury of this state, on or before the thirtieth day of September next, and on or before the thirtieth day of September in each year thereafter, for the use and benefit of the general fund, from the moneys belonging to the surplus revenues of the Erie and Champlain canal, as aforesaid, such sum not exceeding two hundred thousand dollars, as may be required, to defray the necessary expenses of the State, instead of the sum of four hundred thousand dollars required to be loaned to the treasury by the said commissioners, by the first section of the act entitled "An act to replenish the general fund by loans from the canal fund," passed May 16, 1836, which act is hereby repealed so far as relates to all future loans.

Commissioners of the canal fund to pay to treasury, \$200,000.

§ 6. The amount heretofore loaned to the treasury under the provisions of the aforesaid act, shall be charged to the Erie and Champlain canal fund, and the account against the treasury for all such advances as shall have been made at the time of passing this act, shall be deemed to be liquidated and settled.

Amount heretofore loaned to treasury how to be charged.

§ 7. The Treasurer shall pay, on the warrant of the Comptroller, to the commissioners of the canal fund, or to the then holders of the stock, on or before the thirtieth day of September next, the sum of ten thousand one hundred dollars, for the redemption of that amount of stock issued under the provisions of the act entitled "An act to loan the credit of the people of the state of New-York to the president, directors and company of the Neversink Navigation Company," passed April 15, 1828.

Treasurer to pay \$10,100 to redeem certain stock.

CHAP. 264.

AN ACT to extend the provisions of the act authorizing a loan of certain moneys belonging to the United States, deposited with the State of New-York for safe keeping.

PASSED May 26, 1841.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The payment of the principal moneys loaned in pursuance of the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New-York for safe keeping," passed April 4, 1837, is extended for the term of five years from the time when by the terms of the mortgages executed therefor, they will become due and payable; subject however to the condition of being called in, the one-fourth part on a previous notice of one year,

Time of payment extended to 5 years.

PART I.

and the remainder on a previous notice of two years. Such notice may be given by the Comptroller, by publishing the same in the state paper, and in a newspaper, if there shall be any, printed in the county where the lands mortgaged are situated.

Part not
less than
one-fourth
principal
may be
paid.

§ 2. Any mortgagor or other person in his behalf, may at any time pay the whole or any part not less than one-fourth of the principal and interest due upon any mortgage executed upon any loan made by virtue of the act hereby amended. No principal money not then due shall be paid to the said commissioners, except on the warrant of the county treasurer, of the county wherein they are commissioners; and no payment on such warrant shall be valid, unless the receipt therefor of the said commissioners shall be presented to and countersigned by the said treasurer; and it shall be the duty of the county treasurers respectively to make return of all such warrants and receipts to the Comptroller, at such times and in such manner as he may from time to time direct.

Repeal.

§ 3. All the provisions of the act hereby amended which are not inconsistent with this act, are extended and continued in force and shall apply to all the loans which are hereby extended.

CHAP. 310.

AN ACT to regulate purchases for the state and the taking of vouchers.

PASSED April 12, 1842.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Purchases
and work
for the state
to be for
cash.

§ 1. All purchases for the use of any department, office, or work of the government, shall be for cash and not on credit or time. Each voucher, whether for a purchase or for a service, or other charge, shall be filled up at the time it is taken, and in all cases where the payment is not made directly by a canal commissioner, the commissioners of the canal fund, the Treasurer, or Governor, proof in some apt form shall be furnished on oath, that it was so filled up at the time it was taken, and that the money mentioned therein to have been paid, was in fact paid in cash, or by draft on some specified bank. The commissioners of the canal fund, in all cases when moneys are paid from the canal revenues, loans or fund, and the Comptroller in all cases when payments are made from any other revenue or fund, shall from time to time prescribe rules, regulations and forms to secure the faithful observance of this section, and may in all cases if they shall deem it necessary, require proof on oath of the payment of the money as aforesaid.

CHAP. IX.
For the
Senate and
Assembly.

§ 2. The clerk of the senate, and the clerk of the assembly, shall each before or within ten days after every session of the legislature, file in the Comptroller's office an abstract, in such form and containing such particulars as the Comptroller shall direct, of all newspapers ordered by him for the members of their respective houses, and the vouchers for the payment thereof, shall, when presented for audit, be marked with a proper reference to the part of said abstract in which the same is charged; all other accounts and vouchers for the contingent expenses of either house of the legislature shall be presented for audit at least once a month, and shall as far as practicable include all payments up to the time of rendering the accounts. The Comptroller shall make rules and regulations to enforce the observance of the provisions of this section.

§ 3. Fuel and stationery for the senate and assembly, for the several state offices, and fuel to be used in the capitol, so far as a probable estimate thereof for a year or less period can be made, shall be purchased on sealed proposals to be received on public notice. The Comptroller shall employ the proper agents to execute this section of this act, fix, and by the Comptroller's warrant on the treasury, pay their compensation, and the expense and costs of making such purchases. He shall from time to time make rules and regulations to be observed in giving such notice, accepting such proposals, and in relation to the security to be taken for performing said proposals and for preserving said fuel and stationery, distributing them to the proper officers and departments for use, and accounting for the use thereof. He shall report such rules and regulations and the purchases and distributions had under this section to the legislature at the annual session. The cost of the fuel and stationery which shall be distributed to the canal department shall be refunded to the treasury by the commissioners of the canal fund.

Fuel and
stationery
for Senate
and Assem-
bly, capitol
and state
offices.

CHAP. 44.

AN ACT relating to the transmission of public moneys to the Treasury.

PASSED March 13, 1843.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The comptroller is hereby authorized to make such regulations, and give such directions from time to time, respecting the transmission to the treasury of moneys belonging to the state, from the several county treasurers, and the commissioners for loaning certain moneys of the United States, as he, in his judgment, shall deem most conducive to the interest of the state.

Duty of
Comptrol-
ler.

PART I.
Expenses
to be paid.

§ 2. The comptroller may, in his discretion, audit, allow and cause to be paid, such or so much of the expenses necessarily incurred under and in consequence of the aforesaid regulations and directions, as he shall deem equitable and just.

CHAP. 179.

AN ACT to refund moneys paid in certain cases for taxes.

PASSED April 18, 1843.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Duty of
comptrol-
ler.

§ 1. Whenever it shall appear satisfactorily to the comptroller that the amount of any tax has been paid, and afterwards other money has been paid into the treasury on account of such tax; and in cases where it shall appear that the amount due for any tax has been overpaid, he may draw his warrant on the treasurer for the amount so overpaid, in favor of the person who may have made such payments.

CHAP. 15.

AN ACT to amend the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the State of New-York for safe keeping."

PASSED February 7, 1844.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Duty of
commis-
sioners.

§ 1. The commissioners of the United States deposit fund, on a sale of mortgaged premises, shall retain in their hands no more than the amount of the principal then due on the mortgage, together with the interest which may have accrued thereon, and the expense of the advertisements and sale; and if any excess over and above the principal, interest and costs aforesaid shall have been paid to the said commissioners under the provisions of the thirty-ninth section of the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New-York, for safe keeping," the comptroller is hereby authorized and required to cause such excess to be refunded to the mortgagor, his or her heirs or assigns, or to the person or persons equitably entitled to the same.

[This act was repealed by Laws of 1863, ch. 73. Post, vol. 6, p. 59.]

CHAP. 326.

AN ACT to amend an act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New-York for safe keeping," passed April 14, 1837.

PASSED May 7, 1844.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The provisions of section forty-four of the act passed April 4, 1837, are so far modified and amended as to authorize the commissioners of loans to deliver to the comptroller the original mortgages on property forfeited and sold for non-payment of interest, and bid off for the people of this state, in conformity with the provisions of the same act.

Original mortgages to be delivered to comptroller.

§ 2. It shall be the duty of the comptroller, upon the application of any person interested therein, to furnish a certified copy under his seal of office of any original mortgage made to the commissioners of loans, and delivered to him in pursuance of the fifty-fourth section of the act hereby amended, or of any act amending the same; and such certified copy shall, if required by the holders thereof, be recorded, together with the certificate of the comptroller, in the office of register or clerk of the county in which the lands described in the said mortgage are situated; and every such certified copy and such record thereof, or a transcript of such record, may be read in evidence in any court of this state, without any further proof thereof, with the like force and effect as the said original mortgage. The comptroller shall be authorized to demand and receive for every such certified copy of a mortgage the sum of fifty cents.

Copies thereof to be given and may be recorded.

Fees.

§ 3. The commissioners of loans when required by any person interested in any lands which have been heretofore sold, or may hereafter be sold under the foreclosure of any mortgage made in pursuance of the act hereby amended, are hereby authorized and directed to furnish a brief certificate of all or any of the proceedings of the commissioners under the said act, and of the proofs of such proceedings, as the same appear from the minute books, entries and records, kept by the said commissioners in relation to any such foreclosures and sale, so far as the same may affect such lands; and every such certificate under the hands and seals of the said commissioners, or under the hand and seal of any one of them, duly acknowledgment* or proved in the manner required by law to entitle a deed of real estate to be recorded in the office of the register or clerk of the county in which the said lands are situated; and every such certificate so acknowledged or proved, and the record thereof, or a transcript of such record,

Commissioners to give a certificate of proceedings.

* So in original.

PART I.

Commissioners to have the care of lands until sale.

shall be prima facie evidence of the facts therein stated, and may be read in evidence in any court in this state. For executing and delivering such certificate, the commissioners of loans shall be entitled to demand and receive from the person requiring the same, the sum of three dollars.

§ 4. In all cases wherein mortgages to the commissioners aforesaid have been, or may be hereafter foreclosed, and the lands bid off to the people of this state, and the said mortgages delivered to the comptroller pursuant to section fifty-four of the act hereby amended, it shall continue to be the duty of the said commissioners, according to the provisions of the act aforesaid, and under the direction of the commissioners of the general land office, to exercise supervision and care over the interests of the people in the said lands, until the same shall have been finally disposed of according to law and the said commissioners shall be allowed to include the original amount of loans on the said mortgages as a portion of the funds on which commissions may be estimated under the act aforesaid.

CHAP. 267.

AN ACT to amend an act entitled "An act authorizing a loan of certain moneys belonging to the United States deposited with the state of New-York, for safe keeping," passed April 4, 1837.

PASSED May 13, 1845.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Money may be reloaned.

§ 1. Whenever any part of the principal moneys loaned out, under the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the state of New-York, for safe keeping," passed April 1st, 1837, shall be paid into the loan commissioners under said act, in the several counties in this state upon any mortgages, it shall be the duty of said commissioners to loan out the same again, in the same manner as when the whole of the principal and interest due upon any mortgage shall be paid in to them.

CHAP. 8.

AN ACT appropriating the annual revenues of the Common School and United States Deposit Funds.

PASSED February 12, 1847; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Revenues of the common school

§ 1. There shall be paid from the Treasury, on the warrant of the Comptroller, out of the revenue of the Common School

Fund, to the treasurers of the several counties, and the chamberlain of the city of New-York, the sum of one hundred and ten thousand dollars, for the use of schools, according to the apportionment made by the superintendent of common schools. There shall be paid in like manner, and for the like purpose, out of the annual income of the United States Deposit Fund, the sum of one hundred and ten thousand dollars, on the conditions prescribed in the second section of chapter two hundred and thirty-seven, of the Laws of one thousand eight hundred and thirty-eight. And there shall also be paid, in the same manner, on account of district school libraries, or for the payment of teachers' wages, or for the purchase of maps, globes or scientific apparatus in the discretion of the inhabitants of the several school districts qualified to vote therein, the sum of fifty-five thousand dollars, and for the payment of the salaries of county superintendents of common schools in arrear, on the conditions prescribed in chapter two hundred and sixty, of the Laws of one thousand eight hundred and forty-one, fourteen thousand dollars.

CHAP. IX.
and U. S.
deposit
fund, how
distributed.

CHAP. 258.

AN ACT appropriating the annual revenue of the Literature, and United States Deposit Funds, of the years 1847 and 1848.

PASSED May 12, 1847; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 5. The treasurer shall hereafter keep a separate book account for all moneys that may belong to the United States deposit fund, and a like separate account for all moneys that may belong to the literature fund, and the interest that may be received on the said accounts, shall be carried at the close of each fiscal year, to the credit of the income of said funds respectively.

Separate
accounts to
be kept.

§ 7. The sum of twenty-five thousand dollars of the income of the United States deposit fund set apart by the constitution, together with the residue thereof not herein otherwise appropriated, shall be annually added to the capital of the common school fund, and the comptroller is hereby authorized and required to invest such surplus moneys, in like manner as he is now authorized to invest moneys of the common school fund.

Amount to
be yearly
added to
common
school fund.

CHAP. 438.

AN ACT in relation to the general fund debt.

PASSED December 11, 1847; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Arrangement to be made with the holders of the five per cent stock.

§ 1. The comptroller is hereby authorized to make an arrangement with the holders of the five per cent stock issued under the act, chapter eighteen of the Laws of 1840, and reimbursable on the first day of January, one thousand eight hundred and forty-eight, to defer the payment of the principal of said debt until such time as the sinking fund established by the second section, article seven of the constitution, will be sufficient to pay the same, provided that no arrangement shall extend beyond seven years; and the faith of the state is hereby pledged to appropriate from time to time in the manner prescribed by section eight, article seven, of the constitution, such sum as may be necessary to pay the interest quarter yearly on the debt thus deferred.

Provision in case such cannot be made.

§ 2. If a satisfactory arrangement cannot be made with the holders of the stock referred to in the preceding section, the comptroller is authorized to take the same or any portion of it as an investment on account of any of the trust funds in the treasury or in his hands.

Appropriation.

§ 3. The sum of three hundred thousand dollars is appropriated to carry the provisions of this act into effect, payable from the capital of the common school fund, the United States deposit fund, or any of the trust funds having capital in the treasury for investment.

CHAP. 476.

AN ACT authorizing the commissioners for loaning certain moneys of the United States, to open separate accounts with purchasers of mortgaged premises.

PASSED December 15, 1847.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

New accounts to be opened for parts of premises.

§ 1. Whenever any person owning premises subject to a mortgage given to the commissioners for loaning certain moneys of the United States, of any county of this state, shall sell any portion of the said premises, it shall be the duty of the said commissioners on application to them for that purpose, with the assent of the mortgagor, to open an account against any purchaser for the proportionate part of the moneys secured by said mortgage on the portion of the said premises

purchased by him, and thereafter to give credit for the payment on such portion, whenever the person making such payment shall so require: No such account shall be opened for a less sum than one hundred dollars: Nor unless the remainder of the mortgaged premises exclusive of all buildings thereon, and of the value of the rent in perpetuity if any, charged thereon, shall appear, to the satisfaction of the said commissioners, to be worth double the amount of the residue of the said mortgage debt and interest, not included in said new account.

Restriction.

§ 2. Whenever any part for which a separate account has so been opened, shall have been fully paid, the said commissioners shall discharge or release the same from such mortgage, and such discharge or release duly acknowledged or proved, shall be sufficient to authorize the county clerk to enter a minute of such payment on the margin of the registry of such mortgage.

Part when to be discharged from mortgage.

§ 3. Nothing in this act shall be construed to affect or impair the obligation or liability of any mortgagor under or by virtue of any covenant contained in such mortgage.

Savings clause.

§ 4. The commissioners shall make a special report of their proceedings in each case under this act, to the board of supervisors, at their first annual session after the new account is opened.

Report to be made to supervisors

§ 5. The comptroller shall prescribe regulations for opening new accounts by the commissioners aforesaid, similar to those adopted in the comptroller's office; and the commissioners shall give to the purchaser or purchasers of any portion of the premises mortgaged to them as such commissioners, a certificate, containing a description of the premises set off, the amount payable thereon, and setting forth that when the payment is made, the original mortgage will be cancelled in respect to the premises described in the certificate.

Comptroller to prescribe regulations.

CHAP. 216.

AN ACT to provide for deficiencies in the sinking funds, under the provisions of article seven of the Constitution.

PASSED April 10, 1848; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The commissioners of the canal fund are hereby authorised to borrow upon the credit of the sinking fund, specified in section first of article seven of the constitution, the sum of four hundred eighty-nine thousand eight hundred and nineteen dollars and thirty-four cents, to supply the existing deficiency specified in the report of the comptroller made to the Assembly on the thirteenth day of March, one thousand eight hundred and forty-eight, and the sum so borrowed shall

Money may be borrowed to supply present deficiency in sinking fund.

PART I.

be applied to the completion of the Erie canal enlargement, and the completion of the Genesee Valley and Black River canals, in the same manner as that amount, used for other purposes, would have been applicable to that object, under the provisions of the constitution; and the comptroller is hereby authorized to issue stock therefor in the manner prescribed by law for the issue of stock in other cases.

Money may be borrowed for deficiency to pay interest and principal of canal debt.

§ 2. If the sinking fund provided in the first section of article seven of the constitution, shall at any time be insufficient to pay the interest and redeem the principal of that part of the state debt called the canal debt, as the same shall become due and payable, the commissioners of the canal fund shall be authorized under the provisions of said article seven, to borrow on the credit of such fund, payable in such time not exceeding eighteen years, and bearing such rate of interest not exceeding seven per cent. per annum, as they may deem most beneficial to the interests of the state to supply such deficiency, and the comptroller shall be authorized to issue stock therefor, in the manner provided by law for the issue of stock in other cases.

To pay general fund debt loans, to railroad companies.

§ 3. If the sinking fund provided by the second section of article seven of the constitution, shall at any time be insufficient to pay the interest and redeem the principal of that part of the state debt called the general fund debt, including the debt for loans of the state credit to railroad companies which have failed to pay the interest thereon, and also the contingent debt on state stocks loaned to incorporated companies which have hitherto paid the interest thereon, whenever and as far as any part thereof may become a charge on the treasury or general fund, it shall be lawful for the comptroller to borrow upon the credit of such sinking fund, payable in such time not exceeding eighteen years, and bearing such rate of interest not exceeding seven per cent per annum, as he may deem most beneficial to the interests of the state, for the purpose of supplying such deficiency and to issue stock therefor in the manner provided by law for the issue of stock in other cases.

CHAP. 313.

AN ACT in relation to the state offices, and to provide for the expenses thereof.

PASSED April 12, 1848; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Expenses for furniture, books, &c. allowed.

§ 3. The expenses of the necessary furniture, books, book-binding, blanks, printing, (except such printing as is provided for by the act entitled "An act to provide for the public printing," passed March 5, 1846,) postage, cleaning, and other

necessary incidental expenses for the offices of secretary of state and superintendent of common schools, the comptroller, the treasurer, the state engineer and surveyor, attorney general, adjutant general, and the clerk of the court of appeals, shall be paid out of the treasury, and an account of the items of such expenses shall be annexed to each warrant to be drawn.

[This chapter repealed by Laws of 1884, ch. 280, § 4.]

CHAP. 366.

AN ACT to authorise the comptroller to make temporary loans to supply any deficit in the treasury.

PASSED April 12, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 3. Whenever there shall be any money in the Treasury belonging to the United States deposit fund it shall be the duty of the comptroller to invest the same in such of the public stocks of this state, or subscribe the same to such of the public loans of this state as he shall deem most for the interest of said fund or with the assent of the secretary of state he may loan or invest the same in such bonds and mortgages or stocks of the United States as they may deem most beneficial to said fund.

U. S. deposit fund when to be invested.

§ 4. The payment of the principal moneys loaned in pursuance of the act entitled "An act authorizing a loan of certain moneys belonging to the United States deposited with the state of New York for safe keeping," passed April 4, 1837, is extended for the term of fifteen years from the time when by the terms of the mortgages executed therefor, they will become due and payable, subject however to the condition of being called in; the one-fourth part on a previous notice of one year, and the remainder on a previous notice of two years; such notice may be give by the comptroller by publishing the same in the state paper, and in a newspaper if there shall be any printed in the county where the lands mortgaged are situated; but this section shall not extend the payment of any mortgage beyond the first day of January one thousand eight hundred and fifty-three.

Act of April 4, 1837, extended for 15 years.

CHAP. 228.

AN ACT in relation to claims upon the Canal Fund, and expenses not provided for.

PASSED April 5, 1849; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. If the legislature, the canal board, commissioners of the canal fund, or canal commissioners, shall at any time, by

Money may be borrowed.

PART I.

Interest.

virtue of constitutional and legal authority vested in them, authorise or require the payment of any sum of money out of the canal fund, for any purpose connected with the canal expenditures, to which the revenues of the canals are not applicable under the restrictions of the constitution, the commissioners of the canal fund shall be authorised, under the tenth section of the seventh article of the constitution, to borrow such sum of money payable in such time, not exceeding eighteen years, and bearing such rate of interest, not exceeding seven per cent. per annum as they may deem most beneficial to the interests of the state; and the comptroller shall be authorised to issue stock therefor, in the manner provided by law for the issue of stock in other cases.

CHAP. 230.

AN ACT to amend the act entitled "An act in relation to the funds appropriated for the canals," passed April 10, 1848.

PASSED April 5, 1849; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The act entitled "An act in relation to the funds appropriated for the canals," passed April 10, 1848, is hereby amended so that the same shall read as follows:

Provision
in case of
unavailable
funds.

§ 1. If any of the stocks or unavailable funds that have been appropriated towards the completion or improvement of any of the canals, shall be unavailable to meet the contracts now made, or that may hereafter be made upon the faith of such appropriations, it shall be lawful for the commissioners of the canal fund to borrow upon the credit of such stocks and unavailable funds, at a rate of interest not exceeding seven per centum per annum, an amount not exceeding the nominal amount thereof, to be repaid from the avails of such stocks or unavailable funds, and pledging the faith of the state to make good any deficiency remaining thereon; and the comptroller is hereby authorised to issue stock therefor, in the same manner as is provided by law for the issue of stock in other cases.

CHAP. 301.

AN ACT appropriating the revenues of the Literature and United States deposit fund.

PASSED April 10, 1849; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Comptrol-
ler to invest
certain
moneys.

§ 8. The sum of twenty-five thousand dollars of the income of the United States deposit fund, set apart by the constitu-

tion together with the residue thereof not hereby otherwise appropriated, shall be annually added to the capital of the Common School Fund, and the comptroller is hereby authorised and required to invest such surplus moneys in like manner as he is now authorised to invest moneys of the common school fund.

[It may be convenient to refer, in this connexion, to the various loans which are by the following chapter consolidated with United States Deposit Loan.

In 1786 (1 Jones and Varick 283, ch. 40) the state loaned its citizens £200,000 in Bills of credit, to be secured on mortgages, payable in fourteen years.

In 1792 (2 Greenleaf, 400, ch. 25) the state made a further loan of £200,000, to be secured in like manner by mortgage, and payable in ten years.

In 1808 (Session Laws, ch. 24) those loans were extended to 1815, and the state made a farther loan of \$400,000 payable in 1815 (Laws of 1808, ch. 216.)

Laws were afterwards passed extending the time of payment, viz :

Laws of 1815, ch. 56 extended it to 1820.

Laws of 1819, ch. 36, extended it to 1822.

Laws of 1821, ch. 189, extended it to 1829.

Laws of 1829, ch. 91, extended it to 1839.

In 1832 (Session Laws, ch. 118) the loan of 1786 was called in and the other two were consolidated, and the loan officers directed not to reloan any of the principal.

Laws of 1836, ch. 470, directed reloan of principal.

Laws of 1839, ch. 337, extended the time of payment to 1849.

In 1837 this State's share of the United States Deposit was loaned to the people. (Laws of 1837, ch. 150.)

In 1850, by the following act, the three loans then existing, viz. those of 1792, 1808 and 1837 were consolidated.]

CHAP. 337.

AN ACT to provide for a final settlement of the loans of one thousand seven hundred and ninety-two and one thousand eight hundred and eight, by a transfer to the United States Deposit Fund, and to abolish the office of Loan Commissioner.

PASSED April 10, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be the duty of the loan commissioners in the several counties in this state, and they are hereby authorized, to transfer and deliver to "The commissioners for loaning certain moneys of the United States," in the same county, as early as practicable after the first Tuesday in May next, all the mortgages which shall then remain in the hands of said loan commissioners belonging to the loan of one thousand seven hundred and ninety-two, or the loan of one thousand eight hundred and eight, which transfer shall be made under the direction of the comptroller, in the manner and for the

Bonds and mortgages of loans to be transferred to commiss. for loaning U. S. D. Fund.

PART I.

Bond of
mortgagor
to be re-
quired.

purposes prescribed by this act. But no such transfer shall be made unless the owner or owners of the premises included in such mortgage shall have assented thereto in writing.

§ 2. Before accepting the transfer of any of the mortgages specified in the preceding section, the commissioners for loaning certain moneys of the United States, shall require a bond to be executed to them by the original mortgagor, or his grantee or grantees, or some person of approved responsibility in his or their behalf, conditioned that the moneys due on said mortgage and the interest thereon, shall be paid to said commissioners, or their successors in office, at the same time or times and in the same manner, and that said mortgage shall be subject to the same conditions, proceedings and liabilities, as if said mortgage had been originally executed to the commissioners for loaning certain moneys of the United States, under and in pursuance of the act entitled "An act authorizing a loan of certain moneys belonging to the United States, deposited with the State of New-York for safe keeping," passed April 4, 1837, and the several acts amendatory thereof.

Condition
of transfer.

§ 3. No such mortgage shall be transferred, as herein provided, unless the interest thereon shall have been paid to the first Tuesday of May next; and in case the owner or owners of the premises described in any mortgage, shall refuse to assent to such transfer, or shall refuse or neglect to execute, or cause to be executed and delivered to the commissioners for loaning certain moneys of the United States, a satisfactory bond, as prescribed by the second section of this act; or if the said commissioners shall be of the opinion that the premises described in such mortgage, are not a sufficient security for the amount due thereon, the loan commissioners shall proceed to foreclose such mortgage in the manner prescribed by the act passed March 14, 1792, and the acts amendatory thereof, if such mortgage shall belong to the loan of 1792; or in the manner prescribed by the act passed April 11, 1808, and the acts amendatory thereof, if such mortgage shall belong to the loan of 1808; and said loan commissioners shall immediately account to the comptroller for the moneys arising from such foreclosure.

Accounts of
commis-
sioners how
settled.

§ 4. On receiving from the said loan commissioners a transfer of any of said mortgages, in the manner herein specified, the commissioners for loaning certain moneys of the United States, shall thereupon make and deliver to said loan commissioners a draft on the treasurer of this state, in such form as the comptroller shall prescribe, for the amount due and unpaid on such mortgage or mortgages, which draft shall be transmitted to the comptroller by the said loan commissioners in settlement of their accounts with the state, and on receiving such draft or drafts the comptroller shall cause the amount thereof to be transferred from the capital of the

United States deposit fund to the capital of the common school fund.

§ 5. The mortgages which shall be transferred by the loan commissioners as aforesaid to the commissioners for loaning certain moneys of the United States, shall form a part of the capital of the United States deposit fund, and the said commissioners for loaning certain moneys of the United States, shall exercise the same powers in relation to such mortgages, in the collection of principal and interest thereon; and in proceedings in case of default, and shall receive the same compensation therefor as if said mortgages had been originally executed to the United States deposit fund, under and in pursuance of the act passed April 4, 1837, and the several acts amendatory thereof.

Transferred mortgages to be a part of the U. S. D. Fund.

§ 6. After making the transfers authorized and directed by this act, the loan commissioners shall proceed to settle their accounts with the comptroller, in respect to the loans of one thousand seven hundred and ninety-two and one thousand eight hundred and eight, and shall pay into the state treasury all balances remaining in their hands, without unreasonable delay; and they shall also deliver to the commissioners loaning certain moneys of the United States, all books, papers, titles and accounts now in their hands, belonging or in any way relating to the said loans of one thousand seven hundred and ninety-two and one thousand eight hundred and eight, or either of them. And from and after the settlement and approval of their accounts by the comptroller, the said offices of loan commissioners, of the loans of 1792 and 1808, shall cease to exist.

Commissioners to pay into treasury money in their hands and deliver books and papers to commissioners of U. S. D. Fund.

§ 7. The comptroller is hereby authorized to allow to the loan commissioners appointed under the said act of 1792 and 1808, such additional compensation as he shall deem just and reasonable for the extra services imposed upon them by this act.

CHAP. 286.

AN ACT in relation to mortgages on premises in the city and county of New-York, taken by the commissioners for loaning certain moneys of the United States.

PASSED June 25, 1851.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. All mortgages heretofore executed on premises in the city and county of New-York to the commissioners for loaning certain moneys of the United States, pursuant to the provisions of the act authorizing a loan of certain moneys belonging to the United States, deposited with the people of

Mortgages where deposited.

PART I.

Office of
commissioners.

the state of New-York for safe keeping, passed April fourth, one thousand eight hundred and thirty-seven, together with the indexes relating thereto, and all mortgages hereafter executed on premises in said city and county and shall be deposited in the office of the register of the city and county of New-York, and shall not at any time be removed therefrom unless the same shall have been paid and fully satisfied.

§ 2. The office of the said commissioners mentioned in the forty-first section of said act shall, in the city and county of New-York, be kept at the office of the register of the city and county of New-York.

§ 3. So much of sections forty-one and fifty-five of said act as are inconsistent with this act are hereby repealed.

CHAP. 36.

AN ACT to provide for certain expenses chargeable upon the canal fund.

PASSED March 22, 1853; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Expenses of
canal de-
partment,
how paid.

§ 1. The expenses of the necessary furniture, books, book-binding, blanks, printing, except such printing as is provided for by the act entitled "An act to provide for the public printing," passed March fifth, eighteen hundred forty-six, postage, express transportation, light, and all other necessary incidental expenses of the canal department, shall be paid by the treasurer, on the warrant of the auditor of the canal department, out of any canal funds in the treasury.

Pay of canal
officers.

§ 2. The compensation of collectors of canal tolls and weigh masters, the pay of their clerks and assistants, their office rent and necessary office expenses, such as shall be fixed and allowed by the canal board, and the compensation of inspectors of boats and their cargoes, or such portions of compensation and expenses as are not paid directly by the collectors of tolls, shall be paid by the treasurer, on the warrant of the auditor of the canal department, out of any canal funds in the treasury.

Penalties
remitted
and tolls
refunded,
how paid.

§ 3. Penalties remitted by the canal board and tolls refunded, if not paid by a collector of tolls, may be paid by the treasurer, on the warrant of the auditor of the canal department, out of any canal funds in the treasury.

CHAP. 3.

AN ACT to amend the act entitled "An act authorizing a loan of certain moneys belonging to the United States deposited with the State of New-York for safe keeping," passed April 4, 1837, and the loan acts of 1792 and 1808.

PASSED February 4, 1856; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Amends section 32 of the act of 1837.

§ 2. The provisions of this act shall apply to all mortgages taken under the loan laws of 1792 and 1808.

CHAP. 721.

AN ACT authorising the issue of the new certificates of state stock and comptroller's bonds, in case of loss by the holders.

PASSED April 17, 1857; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. When it shall satisfactorily appear, on due proof, to the comptroller, that any certificate of stock or bond, issued by him on account of the general fund, state debt, or temporary loan to the treasury, has been lost or casually destroyed, he may issue to the lawful owner of such stock or bond a new certificate or bond, corresponding in date, number and amount with the certificate or bond so lost or destroyed, by expressing on its face that the same is a renewed certificate or bond; but no such renewed certificate shall be issued until good security be given to satisfy the lawful claim of any person or persons to the said original certificate or bond, or to any interest therein. The proofs on which such renewed certificates or bonds are issued shall be filed in the comptroller's office, and he shall report annually to the legislature the number and amount of the renewed certificates or bonds so issued.

Renewed
certificate.

CHAP. 223.

AN ACT to provide for the examination of the accounts of the Treasurer and other State officers.

PASSED April 14, 1862; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. There shall be nominated by the Governor and appointed by him, with the advice and consent of the Senate,

Commissioners of public ac-

PART I.
counts ap-
pointed by
Governor
and senate.

Term of
office.

Shall notify
acceptance.

Time of
meeting of
commis-
sioners.

Duties of
commis-
sioners
relative to
Treasurer,
Comptrol-
ler and
Auditor.

Accounts
to be ex-
amined.

three officers by the name of commissioners of public accounts, who shall hold their offices for three years, and until their successors shall be duly qualified.

§ 2. The three commissioners to be appointed next after the passage of this act shall hold office as follows, namely: one for the term of one year, one for the term of two years, and one for the term of three years, which terms shall be respectively designated by the Governor at the time of appointment.

§ 3. The commissioners so appointed shall, within ten days after receiving notice of their appointment, give notice of their acceptance, which, with the oath of office duly signed and certified by an officer authorized to administer oaths, shall be placed on file in the office of the Secretary of State.

§ 4. The commissioners shall meet at twelve o'clock on the first Tuesday of October in each year, at the office of the Treasurer in the city of Albany, and shall proceed at once to inspect the accounts of the treasury, and shall examine the accounts and vouchers relating to all moneys received and paid from the treasury during the year ending on the thirtieth day of the preceding September.

§ 5. The commissioners shall compare the warrants drawn on the treasury by the Comptroller and by the Auditor of the canal department for the preceding fiscal year, with the several laws under which such warrants are claimed to have been drawn, and shall certify and report whether such warrants were duly authorized by law. In case that any warrant shall be discovered which in their judgment was not duly authorized by law, the commissioners shall state that fact in their report, with their reasons for such judgment.

§ 6. The commissioners shall also inspect the accounts of the commissioners of the canal fund, the accounts of the canal commissioners, the accounts of the superintendents of repairs, and of the collectors of tolls, and all other accounts kept in the canal department. They shall also inspect the accounts of the Inspectors of State Prisons, and of the several wardens and agents employed at the state prisons. They shall also inspect the condition, securities, and all the books and papers of the banking and insurance departments, and ascertain whether the same are kept in compliance with law. They shall also ascertain whether the moneys have been duly paid into the treasury as directed by law, from the several banking corporations for the maintenance of the banking department and the compensation of the superintendent and other persons connected with that department; from the several insurance companies for the maintenance of the insurance department and the compensation of the superintendent and other persons employed in that department; from the several gas light companies for the compensation of the inspectors of gas metres, and other expenditures made a charge upon such companies; and from the several railroad companies for ex-

penses charged upon them for reports and services rendered in the department of the State Engineer and Surveyor.

§ 7. The commissioners shall deliver to the Governor, during the month of January in each year, a report duly signed and certified, which it shall be his duty to transmit immediately to the legislature. The report shall contain a full statement of all the proceedings of the commissioners, and a certificate of the amount of money received into the treasury during the preceding fiscal year; the amount paid from the treasury during the same period, by virtue of warrants from the Comptroller; what amounts have been paid from the treasury upon warrants which they did not consider to be duly authorized by law; the amount of money received by the Treasurer when he entered upon the duties of his office, and the remainder in the treasury at the close of the last fiscal year. Such report shall also contain a full statement of the condition of all accounts kept in the canal department; the receipts and disbursements on account of each and every canal and canal improvement, and whether every such receipt and disbursement was duly authorized by law; also, a full statement of the condition of all accounts kept at the several state prisons, the receipts and disbursements on account of each and every prison, and whether every such receipt and disbursement was duly authorized by law; also, a full statement of the condition of the banking department, and whether the business of that department has been managed and transacted in strict compliance with statute; and also, a like statement of the condition and business of the insurance department. It shall also state the amounts assessed to the several banking corporations for the maintenance of the banking department; to the several insurance companies for the maintenance of the insurance department, and to the several gas light companies for the compensation of the inspectors of gas metres, and other expenses made a charge on said companies, and shall specify the amount paid in each year by every such company or corporation, and the purposes to which the moneys so paid were applied, and from the several railroad companies for expenses charged on them for compensation of persons preparing reports in the office of the State Engineer and Surveyor.

§ 8. Whenever any Treasurer, Auditor of the canal department, or Superintendent of the banking department, or Superintendent of the insurance department, shall die or vacate his office during the term for which he was chosen or appointed, or shall be succeeded at the close of his term by another person duly elected or appointed, the Governor may require, if he shall consider it to be necessary for the public interest, that these commissioners of public accounts shall make an examination of the accounts of such Treasurer, Auditor or Superintendent.

§ 9. The majority of the commissioners may perform all the duties required by this act. But any commissioner who

Report
annually to
Governor.

What to
contain.

On death of
Treasurer,
Auditor,
Superintendent of
banking or
insurance
department, Gov-
ernor may
require
commissioners to
examine
accounts.

Majority of
commissioners may
act.

PART I.

shall omit or neglect, without sufficient reason, to perform the duties imposed by this act, shall be held to have vacated his office, and the Governor shall proceed to appoint his successor.

Compensation of commissioners.

§ 10. The commissioners appointed under this act shall receive a compensation of five dollars for each day actually employed in the discharge of their duties, and the same allowance for mileage which is made to members of the legislature; but such compensation shall not exceed five hundred dollars to each commissioner for any one year. Chapter five hundred and ninety-seven of the Laws of eighteen hundred and fifty-seven, is hereby repealed.

Chapter 597 of laws of 1857 repealed.

CHAP. 318.

AN ACT to provide the means to pay the indebtedness of the State incurred for the enlargement and completion of the canals, and to increase the revenue of the sinking fund, under section three of article seven of the Constitution.

PASSED April 18, 1862; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Additional tax to be levied.

§ 1. In addition to any other tax now authorized to be levied and collected, there shall be imposed for the fiscal year commencing on the first day of October, one thousand eight hundred and sixty-two, a tax of six-eighths of one mill on each dollar of valuation of real and personal property taxable in this state, or a tax at such rate or proportion as may be necessary to raise the sum of one million three hundred and fifty thousand dollars, to be assessed raised and collected upon and by the annual assessments and collections of taxes for the said fiscal year, in the manner prescribed by law, to be paid by the county treasurers respectively, into the treasury of this state, to be there received, held, and paid to and for the uses and purposes in this act prescribed.

Where paid.

§ 2. The whole of the taxes levied and collected under this act shall be paid into the treasury of this state to the credit of the canal fund, and shall be held, applied, and is hereby appropriated as follows:

How taxes applied.

1st. To increase the revenues of the sinking fund under sections three of article seven of the constitution of this state, so as to make the said fund sufficient to preserve the public faith in the payment of the interest on the debt contracted under said section three of article seven, for the enlargement and completion of the canals, the sum of two hundred and fifty-two thousand dollars.

Ib.

2d. To pay the fifteen per cent reserved on contracts entered into pursuant to laws enacted in accordance with said section

three of article seven, for the enlargement and completion of the canals, which may be due to contractors and not provided for by other appropriations, the sum three hundred thousand dollars.

3d. For the payment of awards made by the canal appraisers and the canal board since April thirteenth, eighteen hundred and fifty-nine, and interest thereon at the rate of six per cent per annum, from and after ninety days from the date of such awards to the time when the Auditor of the canal department shall give notice in the state paper that funds have been provided for that purpose; also for the payment of interest in accordance with the provisions of chapter four hundred and ninety of the Laws of eighteen hundred and sixty, together with the payment of such portion of the principal as may be due and unpaid, on which the payment of interest is provided for by said act, the sum of eight hundred thousand dollars.

How taxes applied.

§ 3. To meet the appropriation made under the last clause of the second section of this act, of the moneys to be collected upon said tax, with as little delay as practicable, the commissioners of the canal fund may, from time to time, invest in said tax any surplus moneys of the canal debt sinking fund under section one of article seven of the constitution, not exceeding in all the sum of six hundred thousand dollars, and the moneys thus invested shall be applied to pay the appropriations made for the payment of awards by the canal appraisers, and interest thereon as provided in this act, and of any increase to such awards as may have been made by the canal board; and so much of the moneys arising from such tax as may be necessary, shall be, when paid into the treasury, and hereby is pledged and shall be applied in the first instance to reimburse the said sinking fund for the amount invested in said tax, and for the interest on the same, at a rate not exceeding five per cent per annum from the time of investment to the day of payment.

Authority given to commissioners of canal fund.

§ 4. In case the net proceeds of said tax shall not, when paid into the treasury, be sufficient to pay the appropriation in full, made by this act, then such net proceeds shall be apportioned to the several appropriations herein made in proportion to the several sums appropriated.

CHAP. 227.

AN ACT to provide Compensation for Services therein mentioned.

PASSED April 15, 1828.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The commissioners of the land-office shall allow a reasonable compensation for the services mentioned in the

PART I.

seventy-first and seventy-second sections of Article fifth, Title fifth, of Chapter ninth, of the First Part of the Revised Statutes of this state, whether the same services were performed by virtue thereof, or of a part of any statute therein consolidated and re-enacted, and to direct such compensation to be paid out of the treasury, on the warrant of the comptroller.

CHAP. 249.

AN ACT concerning the Capitol, and providing for the appointment of a Superintendent thereof.

PASSED April 17, 1830.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Trustees of
the capitol.

§ 1. The governor and lieutenant-governor, the speaker of the assembly, the secretary of state, the attorney-general and the comptroller, by right of office, are, and shall continue to be, trustees of the capitol; and the custody and care thereof shall be, and hereby is vested in the said trustees.

Repairs.

§ 2. The said trustees shall have power, from time to time to cause such repairs to be made as may be necessary for the preservation of the said capitol; and the comptroller shall draw his warrant on the treasury for the expense thereof, not exceeding two hundred dollars in any one year.

Repeal.

§ 3. The second section of title seven of chapter nine of the first part of the Revised Statutes, is hereby repealed.

Superin-
tendent.

§ 4. The said trustees shall appoint some suitable person to be superintendent of the capitol, who shall reside therein, and shall observe such orders and directions relating to the preservation of the same, as shall from time to time be given by the said trustees.

Rooms may
be leased.

§ 5. Such rooms in the said capitol as are not appropriated to public use, and not necessary for the accommodation of the legislature and the courts authorised by law to be held there, may be leased by the said trustees, from year to year, upon such terms and conditions as to the said trustees shall seem proper.

CHAP. 268.

AN ACT relating to the Public Lands.

PASSED April 19, 1830.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Lands
belonging
to canal
fund.

§ 1. The comptroller is hereby directed to transfer upon the books of his office, from the general fund, and to charge to the

canal fund, all the expenses heretofore paid for the survey and appraisement of the lands ceded to this state by the Holland land company, for the benefit of the canal fund.

§ 2. The commissioners of the land office are hereby authorised, in their discretion, and when they shall think it for the interest of the state so to do, to order the treasurer, upon the warrant of the comptroller, to pay off and cancel any charges, assessments or incumbrances, existing upon any lands which shall have been bought in by the state upon the foreclosure of mortgages, so as to perfect in the state a title to any such lands.

Charges and assessments on certain public lands.

§ 3. All expenses of survey, appraisement, or any other expenses attendant upon the sale of any lands belonging to any of the special funds of this state, shall hereafter be chargeable upon and paid out of the funds respectively to which any such lands belong.

Surveys, &c. to what fund to be charged.

CHAP. 322.

AN ACT relating to the Conditions in certain Grants by the State.

PASSED April 20, 1830.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The right reserved to the state of vacating the grants made by patent, founded upon the condition that actual settlements should be made upon the lands granted within the period mentioned in said patents, is hereby released to the patentees, their heirs and assigns.

CHAP. 61.

AN ACT providing for the re-survey of the Public Lands.

PASSED March 12, 1831.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. The surveyor-general shall, within one year from the date hereof, cause township number eleven, of the old military tract, to be re-surveyed, and the lines and corners and numbers of the lots to be distinctly marked thereon, and an accurate map to be made of the same, a copy of which map shall be filed in the clerk's office of the town of Wilmington.

§ 2. Whenever the commissioners of the land-office shall deem it necessary to have the lines of other tracts re-surveyed for the purpose of promoting the sale thereof, or for the better identifying the bounds of lots, it shall be lawful for them to direct the surveyor-general, to cause such surveys to be made.

CHAP. 102.

AN ACT concerning the Foreclosure of Mortgages to the People of this State.

PASSED April 6, 1831.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Section four of title fifteen, chapter eight of the third part of the Revised Statutes, shall not apply to the foreclosure of mortgages to the people of this state.

Notice of
sale.

§ 2. In the foreclosure of mortgages to the people of this state, by advertisement and sale, it shall be sufficient to state in the notice of sale,

1. The terms of the sale:
2. The name of the mortgagor:
3. The number, or other designation of the lot or parcel of land mortgaged, with the quantity as near as may be, and the name of the tract, patent, township, or purchase in which the same is situated, and a reference to the record of the mortgage or registry of the power to sell:

4. If a new account has been opened on the books of the comptroller, for any part of the lot or parcel of land mortgaged, the notice shall state whose new account, or whether what is called a residue or remainder, on said books, is intended to be sold.

CHAP. 66.

AN ACT in relation to the State-Hall.

PASSED April 1, 1834.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Trustees of
the state
hall.

§ 1. The governor, lieutenant-governor, the speaker of the assembly, the secretary of state, the attorney-general, the surveyor-general and the comptroller, shall be trustees of the state-hall, and shall possess all the powers conferred by the acts, chapters two hundred and eighty-three and three hundred and twenty-three, of the laws of 1833.

To purchase
land in
Albany.

§ 2. The said trustees are authorised to purchase land in the city of Albany, in the vicinity of the Capitol, of such extent as in their opinion will be required for convenient public buildings for the use of the state, and to cause to be erected thereon, a new state-hall, upon such plan and of such dimensions as the public interests may require.

Duty of the
state prison
agent.

§ 3. The agent of the state prison at Mount-Pleasant shall cause to be prepared and delivered at the prison on the order

of the trustees, the stone and all such other articles necessary for the building as can be manufactured at the said prison, and shall charge the same at a reasonable price.

§ 4. The said trustees shall sell the present state-hall and the lands belonging thereto, as soon as the same can be done on terms advantageous to the public, and may contract to deliver possession of the same at such time, as in their judgment, the new offices will be completed.

Trustees to sell the present state hall.

§ 5. The additional sum of forty thousand dollars is hereby appropriated, and may be drawn from the treasury on the order of the said trustees.

Appropriation of \$40,000.

§ 6. The said trustees shall report to the legislature at its next session, within twenty days after the commencement thereof, a particular statement of the expenditures which have been made under this act, together with a plan of the building and an estimate of the expense of completing the same.

Trustees to report.

CHAP. 232.

AN ACT to amend the Revised Statutes relative to grants of land under water.

PASSED May 6, 1835.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The powers conferred on the commissioners of the land-office by article fourth of title fifth, chapter ninth of part first of the Revised Statutes, are hereby extended to lands under water, and between high and low water mark, in and adjacent to and surrounding Long-Island, and to all that part of the county of Westchester lying on the East river or Long-Island Sound; but no grant shall be made within the boundaries of the city of New-York, or interfere with the rights of the corporation of said city.

Power to grant land under water extended.

§ 2. This act or the act referred to in the preceding section, shall confer upon the said commissioners no other power than to authorize the erection of such dock or docks, as they shall deem necessary to promote the commerce of this state, and the collection of reasonable and accustomed dockage from persons using such dock or docks, and the legislature may at any time regulate the same in such manner as they shall think proper.

For the purposes of commerce.

§ 3. So much of article fourth of title fifth of chapter ninth of part first of the Revised Statutes as is inconsistent with this act is hereby repealed.

Repeal.

Anta, vol 1, p. 208.

CHAP. 457.

AN ACT in relation to the sales of land by the attorney-general and surveyor-general.

PASSED May 25, 1836.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Time of redemption.

§ 1. The time allowed for the redemption of the land on sales made by the attorney-general, as provided for by the thirteenth section of title six, of chapter nine, of the first part of the Revised Statutes, is hereby extended to three months from the time of the sale. Ante, vol. 1, p. 211.

Costs and expenses of sale to be paid.

§ 2. In addition to the sum to be paid out of the treasury to the purchaser, as provided for by the fifteenth section of the said sixth title, he shall be paid the costs and expenses of the sale, and the interest thereon, which shall have been paid into the treasury by the person who redeemed the land. Ante, vol. 1, p. 213.

Resales by surveyor-general.

§ 3. On every resale of any lands by the surveyor-general, pursuant to the forty-sixth section of title five of the aforesaid chapter, he shall execute a certificate thereof to the purchaser, specifying the terms of the sale, the amount paid by the purchaser, and that the lands are subject to redemption, pursuant to the provisions of this act; and in case the premises shall be redeemed as hereinafter provided, the sale shall be void and of no effect. Ante, vol. 1, p. 205.

Time for redemption.

§ 4. The original purchaser of any land so resold by the surveyor-general, his heirs or assigns, may redeem the same at any time within three months after such sale.

Interest.

§ 5. The fourteenth section of title six of the aforesaid chapter, and the last clause of the fifteenth section of the same title, as amended by the second section of this act, shall apply to the redemption of lands sold by the surveyor-general. Ante, vol. 1, p. 213.

Sale, when to be completed.

§ 6. If the premises resold shall not be redeemed, the purchaser shall complete the sale immediately after the expiration of the three months, by paying into the treasury the amount that may remain due on the land, and receiving a patent, or by executing the proper bond, and receiving a certificate of the sale.

First certificate to be surrendered.

§ 7. On completing the sale pursuant to the last section, the purchaser shall surrender the certificate mentioned in the third section of this act, and the new certificate to be issued by the surveyor-general shall state, in addition to the other matters required by law, the time when the sale was made, and that the lands have not been redeemed.

Accounts.

§ 8. No account for lands shall be opened at the comptroller's office for a less sum than fifty dollars.

Repeal.

§ 9. The act entitled "An act in relation to the sales of lands by the surveyor-general and attorney-general," passed May 11, 1835, is hereby repealed, and this act shall take effect on the passage thereof.

CHAP. 134.

AN ACT to compel the attendance of witnesses before the board of commissioners of the land-office.

PASSED April 9, 1839.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The commissioners of the land-office may require the attendance of any person as a witness on the part of the state, whenever in their opinion the interest of the state may render it proper, in relation to any application that is or may be pending before them; and for that purpose they may issue subpoenas, which shall be signed by their chairman for the time being, commanding any such person to appear and testify before them, relative to the subject of such application, and to bring forward and produce to them, any writings, books or papers, that may be designated in such subpoena in his possession, or within his control; and every person who after being served with such subpoena and tendered the legal fees, shall without reasonable cause, refuse or neglect to appear and produce such writings, books or papers, or appearing, shall refuse to testify as to any facts within his knowledge relative to the subject matter of such application, shall forfeit one hundred dollars to the people of this state, and shall be liable to be committed to prison by the said commissioners until he shall submit to testify and produce such writings, books or papers: and all expenses necessarily incurred in procuring the attendance of any witness and his legal fees, upon being certified by the said commissioners, shall be paid by the treasurer on the warrant of the comptroller.

Power of the commissioners of the land office.

CHAP. 252.

AN ACT to amend the Revised Statutes, in relation to the sale of lands for taxes.

PASSED May 9, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. At any time after the expiration of three months from the conclusion of any sale of lands for taxes, pursuant to article third of Title third of Chapter thirteen of Part first of the Revised Statutes where any purchaser at such sale shall not have paid the amount of his bid, it shall be lawful for the Comptroller to cancel such sale, by which all the rights of the said purchaser under such bid shall be extinguished.

Sales when to be cancelled.

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Certificates
may be is-
sued to
other
persons.

Note to be
made of the
change.

§ 2. When the Comptroller shall have cancelled any sale in the manner above provided, he may issue a certificate of such sale to any other person who will pay the amount for such certificate which would be payable by the original purchaser, in case the said sale had not been cancelled.

§ 3. The change of purchaser shall be noted in the sales book, and the time when made; and the certificate issued to such new purchaser, shall confer the same rights to him and his legal representatives, as he would have acquired had he been the successful bidder at the sale. The provisions of this act shall apply to all sales made in May and June last.

CHAP. 295.

AN ACT in relation to the State Halls.

PASSED May 14, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Apartments
for state
officers.

§ 1. Whenever the new State Hall shall, in the opinion of the trustees thereof, be so far completed that the same may be occupied it shall be the duty of the trustees to assign apartments therein for the use of the chancellor, judges of the supreme court and register of the court of chancery, the secretary of state, the comptroller, the treasurer, the attorney-general, the surveyor-general, the adjutant-general, the clerk of the supreme court, the canal board and the canal commissioners, and thereupon the said officers shall remove their several offices to the apartments so assigned them, together with the books, papers and furniture belonging to them, except such papers or printed books and pamphlets as they may deem expedient to leave in the present State Hall.

Commis-
sioners of
the land
office to
have the
custody and
care of the
old State
Hall.

§ 4. The commissioners of the land-office shall have the custody and care of the old state hall after the removal of the state officers therefrom, and shall cause such repairs to be made thereto, from time to time, as may be necessary for the preservation of the building and appurtenances, and prepare the same for such public uses as they may think the interest of the state shall require, or as may be directed by the legislature; and the Comptroller shall draw his warrant on the Treasurer for the expenses of such repairs, to be certified by the said commissioners.

CHAP. 70.

AN ACT to authorize the Commissioners of the Land-Office to grant parts of lots sold by the State.

PASSED March 25, 1841.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any person shall pay in full for any part of a lot sold by the Surveyor-General of this state, and the same shall be certified by the Comptroller, according to the thirty-eight section of Article third of Title third of the eighth Chapter of the first Part of the Revised Statutes, it shall be the duty of the Comptroller to endorse the portion of principal so paid upon the obligation executed by the purchaser for the whole lot, and letters patent for the part so paid in full may be issued.

Parts of
lots may be
granted.

§ 2. All grants heretofore made by the Commissioners of the Land-Office of parts of lots, for which payments were made and certified in the manner prescribed by law are hereby confirmed.

Former
grants
confirmed.

CHAP. 213.

AN ACT to provide for the completion of the New State-Hall.

PASSED May 22, 1841.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The sum of twenty-seven thousand dollars is hereby appropriated for the completion of the new State-Hall and its enclosures, to be paid on the warrant of the Comptroller out of any moneys in the treasury not otherwise appropriated.

Appropriation to
complete
new State
Hall.

§ 2. The trustees of the new State-Hall shall appoint some suitable person to be superintendent of the said Hall, removable at their pleasure, who shall reside therein, and shall observe such orders and directions relating to the care and preservation of the same and his duties, as shall, from time to time, be given by the said trustees.

Trustees to
appoint a
superin-
tendent.

§ 3. The said trustees shall from time to time settle the compensation to be paid to the said superintendent, not exceeding one dollar per day, which shall be audited and certified by the said trustees, and paid by the Treasurer upon the warrant of the Comptroller.

His compensation.

CHAP. 265.

AN ACT for the preservation of "Washington's Head Quarters."

PASSED April 10, 1850; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

[For section 1 see Laws of 1851, ch. 509. Post, p. 138.]

Title to
remain in
people.
Trustees of
Newburgh
to take pos-
session.

§ 2. The title of the aforesaid premises shall be retained by, and shall remain in the people of this state.

§ 3. The trustees of the village of Newburgh, shall have power and are hereby authorized to take possession of the aforesaid premises with the appurtenances thereunto belonging, for the purpose of improving the said premises and of preserving the stone building thereon, known as "Washington's Head Quarters."

By-laws and
regulations.

§ 4. The aforesaid trustees, shall have power and are hereby authorised to make such laws and regulations as shall be deemed necessary, and to provide for enforcing the same, for the preservation of the buildings, tenements, fences, improvements, now on, or hereafter to be made upon the aforesaid premises, as hereinafter provided and directed.

Building to
be repaired.

§ 5. It shall be the duty of the aforesaid trustees:

1. To cause the said stone building known as "Washington's Head Quarters," to be put in a state of preservation and reasonable repair, at an expense not to exceed one thousand dollars, which shall include the making and repair of the fences on and around the said premises; but the said repairs shall be made wholly for the purpose of preservation, and shall not, in any way, change the plan or alter the appearance of the building or apartments; but the same shall be preserved as far as possible, in all respects as they were at the time of its occupation by General Washington:

Flag-staff
to be erect-
ed.

2. To erect a flagstaff from the top of the aforesaid stone buildings or in the vicinity thereof, and to procure an United States flag of good, strong materials and of large size, and cause the same to be hoisted and unfurled from said flagstaff on all days of national or state commemoration, celebration, or rejoicing, and upon such other appropriate days during the traveling and pleasure seasons, as may be deemed advisable by the trustees of the village of Newburgh; upon which flag shall be inscribed, in large letters, the following motto, "Liberty and union, now and forever, one and inseparable." The expense of said flagstaff and flag shall not exceed the sum of five hundred dollars.

Walks and
shade trees.

3. To make suitable walks, and to plant shade and ornamental trees and shrubbery upon the said premises in such

place or places as shall be deemed most necessary and appropriate; the expense whereof shall not exceed two hundred dollars.

4. And to appoint some discreet person as steward of the aforesaid premises and the buildings and improvements thereon, whose duty shall be to take charge of the same, to see that the laws and regulations for the preservation thereof are enforced, to hoist and lower and at all times to take charge of said flag, and to admit travelers and strangers upon the premises and show them the apartments of the buildings and their contents, at all reasonable times and in a courteous manner. Such steward shall be reasonably compensated for such services by the said trustees, but not to exceed in any one year the sum of one hundred dollars.

Steward to be appointed.

§ 6. The aforesaid trustees shall keep a true and just account of all disbursements made or incurred by them in carrying out the provisions of this act, which account shall be duly verified by the chairman and clerk of said trustees, to the effect that the several items of such disbursements contained in such account have been necessarily and reasonably made or incurred, and that the same are correct according to the best of their knowledge, information and belief, which account shall be accompanied with the vouchers or duplicates thereof, of such disbursements; and such account and vouchers shall annually be rendered to the comptroller who shall audit the same, and for the amount thereof allowed by him, he shall execute his warrant for the payment thereof by the treasurer out of the moneys appropriated by this act, and the sum of four thousand one hundred and ninety-one dollars and two cents is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay the expenses incurred under this act.

Annual account to be kept of all expenses and audited by comptroller.

CHAP. 283.

AN ACT to amend the Revised Statutes relating to grants of land under water.

PASSED April 10, 1850; "by a two-third vote."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Section sixty-seven of article four of title five, chapter nine of part first of the Revised Statutes, is hereby amended so as to read as follows:

Land may be granted for commerce and for beneficial enjoyment.

The commissioners of the land office shall have power to grant in perpetuity or otherwise, so much of the lands under the waters of navigable rivers or lakes, as they shall deem necessary to promote the commerce of this state, or proper for the purpose of beneficial enjoyment of the same by the

PART I.

adjacent owner, but no such grant shall be made to any person other than the proprietor of the adjacent lands, and any such grant that shall be made to any other person shall be void.

19 B., 541. Ante, vol. 1, p. 208.

Powers
extended to
lands on
Long Island
and East
and Hudson
rivers.

§ 2. The powers conferred on the commissioners of the land office by the first section of this act, are hereby extended to lands under water, and between high and low water mark in and adjacent to and surrounding Long Island, and to all that part of the county of Westchester, lying on the East or Hudson river or Long Island Sound; but no grant made under this act shall extend beyond any permanent exterior water line, established by law, and nothing contained in this act shall authorize the commissioners of the land office, to grant any lands under water belonging to the mayor, aldermen and commonalty of the city of New York, nor to interfere with any property, rights or franchises of said corporation of the city of New York, or interfere with the rights of the Hudson river railroad company.

CHAP. 509.

AN ACT to amend the act entitled, "An Act for the preservation of Washington's Head Quarters," passed April 10, 1850.

PASSED July 10, 1851; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The first section of "An act for the preservation of Washington's Head Quarters," passed April ten, eighteen hundred and fifty, is hereby amended so as to read as follows:

Appropriation.

The treasurer shall pay, on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated, to the commissioners of loans of the United States deposit fund, for the county of Orange, the amount of money due to such fund, which as appears from the last annual report of such commissioners, were loaned upon certain premises known as "Washington's Head Quarters," located in the village of Newburgh, in the said county of Orange, and which, including interest and costs, now amounts to the sum of two thousand three hundred and ninety-one dollars and two cents; and the commissioners of the land office of this state are hereby authorized, in their discretion, to purchase for and on behalf of the people of this state, all those several lots, pieces, or parcels of land formerly attached to and a part of "Washington's Head Quarters," in the village of Newburgh, Orange county, bounded and described as follows, viz.: beginning at the north-east corner of Liberty and Washington streets, in said village of Newburgh, and running thence eastwardly

along the south side of Washington street seven hundred and twelve feet, thence southerly and parallel with Liberty street two hundred feet, thence westwardly and parallel with Washington street seven hundred and twelve feet to Liberty street, thence northerly along the east side of Liberty street to the place of beginning, excepting such parts thereof as now belong to the people of this state, at a sum not exceeding six thousand dollars; and the treasurer shall pay, on the warrant of the comptroller, out of any moneys in the treasury not otherwise appropriated, to the owner or owners of said lots and premises, the price which the said commissioners of the land office shall agree to pay for the same, upon the execution and delivery of good and sufficient deed or deeds of conveyance, therefor vesting the title of said premises in the people of this state; and the sum of six thousand dollars is hereby appropriated out of any money in the treasury not otherwise appropriated, to be applied to the purchase of said lots.

§ 2. The commissary general may, in his discretion, deposit such articles or relics of the revolutionary war, belonging to this state, as in his opinion are suitable to be deposited, for safe keeping at said head quarters.

CHAP. 255.

AN ACT in relation to the State Library.

PASSED May 4, 1844.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The regents of the university of the state of New-York, are hereby constituted and shall continue the Trustees of the State Library. Trustees.

§ 2. The present trustees of the state library shall, immediately after the passage of this act, pay over to the secretary of the regents of the university, all sums remaining in their hands unexpended of moneys appropriated by law for the purposes of the said library, and shall also deliver to the said secretary, all books, documents, vouchers and papers in their custody or under their control, belonging or relating to the said library. Money to be paid over.

§ 3. The trustees hereby appointed, shall have power, from time to time, to appoint a librarian to superintend and take care of the said library; and to prescribe such rules and regulations for the government of the library, as they shall think proper; and to remove the librarian at any time when they shall deem it expedient; but for the purpose of removing or appointing a librarian, twelve of the said trustees shall be required to form a quorum. Librarian how to be appointed.

§ 4. The contingent expenses of said library, incurred for stationery, fixtures, fuel, candles, binding of the books pur- Contingent expenses.

PART I.

chased for or deposited in the library, and the expenses of cleaning the apartments in which the library is kept, and providing, from time to time, necessary furniture for the same, shall be duly certified by the chancellor and secretary of the regents of the university, and paid out of the treasury of this state; but that portion of the said contingent expenses appropriated to the purchase of stationery and candles, shall not exceed the sum of seventy-five dollars for each year.

Library
how to be
kept open.

§ 5. The state library shall be kept open, every day in the year, Sundays excepted, during such hours in each day as the trustees of the said library may direct.

Duty of
Librarian.

§ 6. The librarian shall be constant in his personal attendance upon the library, during the hours it shall be directed to be kept open, and shall perform such other duties as may be imposed by law or by the rules and regulations which may be prescribed by the said trustees. He may appoint some person of a suitable age and having proper qualifications for the situation, as his assistant, but such appointment shall be submitted to the trustees for their approval, and shall not be effectual without such approval.

Annual
report.

§ 7. It shall be the duty of the trustees of the state library annually to report to the legislature, the manner in which the moneys by them received during the year preceding have been expended, together with a true and perfect catalogue of all the books, maps and charts which have been added to the library since the date of the last preceding annual report, and whether any, and if so, what books, maps and charts have been lost; and also at the end of every five years, to report in like manner a full and perfect catalogue of all the books, maps and charts then remaining in the library.

Salary.

§ 8. The salaries of the librarian and his assistant, shall be regulated by the trustees at such sums as they shall deem reasonable, not exceeding in the whole for both of them, the sum of eight hundred and twenty-five dollars per annum; and such salaries shall be paid quarterly or monthly in the discretion of the trustees.

Repeal.

§ 9. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

CHAP. 85.

AN ACT relative to the State Library.

PASSED April 24, 1845.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Books.

§ 1. The heads of the several departments, and the trustees of the state library shall have the same right to take books from the library as is now enjoyed by members of the legislature.

CHAP. IX.
New catalogue to be made.

§ 2. The said trustees are hereby authorized to prepare a new catalogue of the library as soon as conveniently may be, and to cause the same to be printed, the expense of which, together with all the contingent expenses of the library, as certified by the trustees, shall be paid out of the treasury.

§ 3. The trustees of the state library may from time to time, sell or exchange duplicate or imperfect books belonging to the library, not necessary for the use thereof. Imperfect books may be sold.

§ 4. The trustees shall cause the book-cases in the miscellaneous library, if they shall deem it necessary so to do, from time to time, to be enclosed with glass or wire doors, as they may deem best, the expense of which shall be paid as part of the contingent expenses of the library. Book cases.

§ 5. The allowance for lights and stationery in the state library is hereby increased fifty dollars per annum; the annual allowance for the salary of the librarian and assistant, is hereby increased one hundred and seventy-five dollars, to be divided among them as the trustees shall direct. Lights, stationery and salary.

§ 6. The sum of four thousand dollars is hereby appropriated, to be paid on the order of the said trustees out of the treasury, for the purchase of the library of David B. Warden, of Paris, to be deposited in the state library, referred to in a report of the said trustees, made to the assembly on the thirteenth day of January last; Provided the said library be delivered to the trustees for that sum, without any charge for transportation, or other expenses of any description. Appropriation to purchase D. B. Warden's library.

§ 7. The said trustees shall annually hereafter, as long as they may consider it proper, transmit to the French government, and to such other foreign governments as may have made donations to this state, in books or works of art, a duplicate copy of the Sessions Laws and Legislative Documents of this state. Laws, &c., to be sent to foreign governments.

CHAP. 262.

AN ACT making appropriations for the State library.

PASSED April 11, 1848; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 3. The judges of the court of appeals and the justices of the supreme court, shall be allowed to take books from the library under the same regulations as the members of the legislature. Judges of appeals may use books.

CHAP. 300.

AN ACT concerning the library of the late Court of Chancery and the Supreme Court, and for locating and increasing the same.

PASSED April 9, 1849; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Library of
the court of
appeals.

§ 1. The public library called the "Chancellor's Library" shall continue to be a public library under the name of "The Library of the Court of Appeals," and the judges of that court shall, by an order entered in their minutes, direct the location of the same at some place west of the seat of government; and on suitable and convenient rooms and accommodations being provided in such place, the said judges shall direct the clerk of that court to remove the said library to that place. But before such removal the regents of the university may in their discretion take from said library, and deposite in the state library at Albany, books of which copies are not now in said state library.

Duplicate
copies how
to be dis-
posed of.

§ 2. Such books in the said library as are duplicates or copies of other books therein, and such others as the said judges shall think proper, shall under the like direction be located at any other place west of the seat of government, which the said judges shall designate; and on suitable and convenient rooms and accommodations being provided, such books shall in like manner be removed to that place, and on being so removed those books and such others as shall be added thereto, shall constitute another public library, and shall be the property of the state.

Librarian
to be ap-
pointed.

§ 3. The regents of the university shall appoint a suitable person to be librarian of the library of the court of appeals, and shall designate the compensation to be paid to him, and they shall also appoint a suitable person for librarian of any other library which may be established under the preceding section, and designate his compensation.

The law
libraries
of late
supreme
court, &c.,
how to be
used.

§ 4. The three law libraries of the judges of the late supreme court, and the library of the late vice chancellor of the second circuit, are hereby declared to be for the use of the four judges of the court of appeals elected by the people of the state at large, and their successors in office, and the clerk of that court shall cause to be made any removal of books necessary to carry this section into effect, and for the purpose of enlarging the library of the late vice chancellor of the second circuit, and equalizing and enlarging the four libraries in this section mentioned, a portion of the interest fund upon moneys temporarily deposited in the office of the clerk in chancery for said second circuit not exceeding three thousand dollars may be applied under the direction of the said judges.

§ 5. The clerk of the court of appeals shall keep invested in his name of office in such manner as that court shall direct, a certain fund accumulated by way of interest upon moneys temporarily deposited in the court of chancery known as the chancellor's library fund and interest fund, together with the residue of the interest fund from the second circuit mentioned in the preceding section: and the income of such fund for the year last past and the future income thereof until otherwise provided by law may be expended under the direction of the judges of the court of appeals as follows: The expenses of carrying this act into effect shall be paid therefrom, and also the compensation of any librarian or librarians to be appointed under this act: a portion of said income not exceeding one fourth part thereof, may be expended in enlarging and improving the four libraries for the use of the judges mentioned in the last preceding section, and the residue shall be expended in enlarging and improving the public libraries in the first two sections of this act mentioned. Nothing in this act contained shall bring a charge upon the treasury of the state.

CHAP. IX.
Clerk of
the court
of appeals
to keep
certain
moneys
invested.

§ 6. The regents of the university shall frame and establish suitable rules and regulations for the use of the books in the public libraries mentioned in this act, and shall add to and amend the same as shall be necessary.

Rules to be
framed by
regents.

CHAP. 155.

AN ACT to procure a law library for the office of the attorney general.

PASSED April 5, 1850; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The treasurer shall pay, on the warrant of the comptroller, to the attorney general the sum of fifteen hundred dollars, to provide a law library for the office of the attorney general of this state, and the said attorney general shall prudently and carefully expend said money so appropriated, in the purchase of such law books as shall in his judgment be most useful in the said office, and which library, when so purchased, shall be known as the attorney general's library, and shall forever thereafter be kept in his office.

\$1,500 ap-
propriated.

§ 2. The attorney general shall, immediately after completing the purchase of said library, file in the office of the secretary of state a true catalogue of the books so purchased by him, stating therein the name or title of each book so purchased, and the price paid for the same; and shall annually thereafter, on the last Monday of December in each year, file in the office of the said secretary a true catalogue of the law books in his office, belonging to the state, and constituting the attorney general's library.

Catalogue
to be filed
with secre-
tary of state

CHAP. 454.

AN ACT making appropriations for the State Library and to the Regents of the University for literary and scientific purposes.

PASSED July 9, 1851.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The following appropriations are hereby made, to be annually paid by the treasurer on the warrant of the comptroller.

§ 2. The treasurer shall pay on the warrant of the comptroller, out of any monies in the treasury not otherwise appropriated, to the trustees of the state library, as soon after the first day of January in each year as the said trustees may require the same:

Purchase of books. Two thousand eight hundred dollars for the purchase of books and the enlargement of the library.

Binding. Eight hundred dollars for the binding, lettering and marking of books.

Contingent expenses. Five hundred dollars for the contingent expenses of the library.

Salaries. One thousand eight hundred and fifty dollars for the salaries of the librarian, assistant librarian and messenger.

International exchanges. Six hundred dollars for conducting the system of international exchanges now existing, to be expended by the regents for that purpose as provided by chapter three hundred and seventy-eight of the laws of one thousand eight hundred and forty-seven.

§ 3. The treasurer shall pay on the warrant of the comptroller to the regents of the university, out of any monies in the treasury not otherwise appropriated, as soon after the first day of January, in each year, as the said regents may require the same:

Secretary's salary. Fourteen hundred dollars for the salary of the secretary of the board of regents, the pay of a messenger, and for postage, stationery and printing.

Incidental expenses. Twelve hundred dollars for the incidental expenses of the regents.

Curator's salary. Eight hundred dollars for the annual salary of the curator state cabinet of natural history.

Cabinet of natural history. Eight hundred dollars for the preservation and increase of the state cabinet of natural history, and of the historical and antiquarian collections annexed thereto, including all contingent expenses.

CHAP. 230.

AN ACT to establish and preserve a law library in the sixth judicial district, to be called "The Supreme Court Library."

PASSED April 11, 1859; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. There shall be a law library, which shall be called "The Supreme Court Library," and it shall be located at Binghamton, in the county of Broome. Library established.

§ 2. The state treasurer shall purchase law books for said supreme court library, not exceeding five thousand dollars in value; which books shall be designated by a writing, to be signed by at least three of the justices of the supreme court, residing in the sixth judicial district; and said treasurer shall forward the books so purchased by him, to the clerk of Broome county, at Binghamton, at the expense of the state. State treasurer to purchase and forward books.

§ 3. The sum of five thousand dollars is hereby appropriated for the purchase of said law books, by the treasurer. \$5,000 appropriated.

§ 4. The treasurer shall purchase and forward said books, as aforesaid, within one month after he shall receive the writing, designating the books to be purchased by him, signed as mentioned in section three of this act; and he shall purchase said books at the lowest price for which they shall be offered to him, due regard being had to their quality. Books to be forwarded within one month after receiving writing designating same.

§ 5. The clerk of Broome county shall take care of said supreme court library, and shall keep the same in the courthouse at Binghamton; subject, however, to such orders, rules and regulations as may be made touching the same, by a majority of the justices of the supreme court, residing in the said sixth district. Clerk of Broome Co. to take care of same.

§ 6. The clerk shall be paid by the county of Broome all necessary expenses he may incur in taking proper and suitable care of said library, and also such compensation for his services as shall be fixed by the board of supervisors of said county. Clerk to be paid for services.

§ 7. The judges of the court of appeals, the justices of the supreme court, county judges, surrogates, district attorneys, sheriffs, attorneys at law, justices of the peace, all public officers, and all other persons shall, at all reasonable hours, have access to said library, and may read and examine the books therein, so long as they shall conduct themselves in an orderly, proper and respectful manner; and when they fail to do that, said clerk may eject or exclude them from the room or rooms in which said library shall be kept. Access to library.

§ 8. Whoever shall intentionally injure or destroy, or convert to his own use, any book belonging to said library, shall Injury or destruction of books a

PART I.
misdemeanor.

Room to be provided.

Books not to be taken from court-house without permission.

Clerk to make catalogue.

be guilty of a misdemeanor and may be indicted and punished therefor.

§ 9. The board of supervisors of Broome county shall provide a suitable room or rooms, and suitable cases in the court-house at Binghamton, for said supreme court library; and said court may have said library insured for the benefit of said library.

§ 10. Whoever shall take any book belonging to said library, out of the court-house, without permission from the clerk of Broome county, or from one of the justices of the supreme court, shall be liable to be sued therefor, by and in the name of said clerk; and in such suit the clerk shall recover treble the value of the book or books so taken, with costs, for the benefit of said library.

§ 11. The said clerk shall make a catalogue of the books in said library, in the month of October of each year, and deliver the same to the board of supervisors of Broome county, at the first meeting of such board thereafter; in which catalogue shall be stated, the books purchased or lost, or stolen, or taken away, or out of the library, or injured since the making of the last previous catalogue.

CHAP. 402.

AN ACT in relation to the "Supreme Court Library."

PASSED April 14, 1860; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

To be supplied with law books to the same extent as court of appeals library.

Reports to be supplied.

§ 1. The supreme court library, located at Binghamton, shall hereafter be supplied with law books to the same extent that the library of the court of appeals is supplied with law books, and the expense thereof shall be defrayed in like manner.

§ 2. Said supreme court library shall be supplied with the reports of all the decisions of the various courts in the United States (excepting those of Massachusetts and New York), not heretofore agreed to be furnished by Banks and Brothers, by their contract made with the late state treasurer, pursuant to the act of eighteen hundred and fifty-nine; and said books shall be paid for in the same manner that books are paid for which are furnished to the said library of the court of appeals.

§ 3. Said supreme court library shall be supplied with all the books designated therefor in eighteen hundred and fifty-nine, by the justices of the supreme court of the sixth judicial district, which Banks and Brothers are not bound to furnish by their said contract; and said library shall also be supplied with such other law books as shall be necessary to complete said library, according to the original intention.

CHAP. IX.
Books to be
designated
in writing.

§ 4. All books purchased pursuant to this act shall be designated in writing, signed by a majority of the justices of the supreme court of the sixth judicial district; and said justices, or one of them, shall purchase said books on the credit of the state, and the same shall be paid for as herein-before prescribed by this act.

CHAP. 368.

AN ACT in relation to the Appraisal of Damages on the Canals, and for other purposes.

PASSED May 4, 1829.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be the duty of the canal appraisers personally to view the premises on which damages shall be claimed, and to meet at such times and places as they may deem necessary, and as nearly in the vicinity of the premises as conveniently may be, and hear such proper and relevant evidence as shall be offered, and direct the attendance of witnesses in behalf of the state, if in their opinion the interest of the state shall require it; and they are for that purpose empowered to administer oaths to witnesses; and willful false swearing before the said appraisers, is hereby declared perjury.

Powers and
duty of ap-
praisers.

§ 2. It shall be their duty to enter in a book to be kept for that purpose, the nature and extent of all claims on which they shall pass, the items on which allowances are made, and the several amounts allowed, and the items on which no allowance is made; and they shall enter at length the testimony taken, and the grounds and reason for their decision.

Claims to
be entered
in a book.

§ 3. Every person having exhibited a claim for damages to the appraisers, or the canal commissioners, where they shall deem the interest of the state to require it, may enter an appeal from the decision of the appraisers on such claim, to the canal board, who shall proceed to reverse, affirm or modify the appraisement, as in their opinion justice shall require; and their decision shall in all cases be final and conclusive.

Appeal to
canal board.

§ 4. Every such appeal shall be made in writing, stating briefly the grounds on which the appeal is made: if made by the canal commissioners, one copy of the appeal shall be served on the canal appraisers, and another on the party claiming damages, his guardian or agent, either personally or by leaving the same at his usual place of abode: if made by the party claiming damages, one copy of said appeal shall be served on the appraisers, or one of them, and another on the canal commissioners.

To be in
writing.

§ 5. It shall be the duty of the canal appraisers, within thirty days after any claim is decided upon, to make a transcript of the entry of such decision, and file the same in the

Decisions
where to be
filed.

PART I.
misde-
meanor.

Room to
be provided.

Books not
to be taken
from court-
house with-
out permis-
sion.

Clerk to
make cata-
logue.

be guilty of a misdemeanor and may be indicted and punished therefor.

§ 9. The board of supervisors of Broome county shall provide a suitable room or rooms, and suitable cases in the court-house at Binghamton, for said supreme court library; and said court may have said library insured for the benefit of said library.

§ 10. Whoever shall take any book belonging to said library, out of the court-house, without permission from the clerk of Broome county, or from one of the justices of the supreme court, shall be liable to be sued therefor, by and in the name of said clerk; and in such suit the clerk shall recover treble the value of the book or books so taken, with costs, for the benefit of said library.

§ 11. The said clerk shall make a catalogue of the books in said library, in the month of October of each year, and deliver the same to the board of supervisors of Broome county, at the first meeting of such board thereafter; in which catalogue shall be stated, the books purchased or lost, or stolen, or taken away, or out of the library, or injured since the making of the last previous catalogue.

CHAP. 402.

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To be sup-
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law books
to the same
extent as
court of
appeals
library.

Reports to
be supplied.

§ 1. The supreme court library, located at Binghamton, shall hereafter be supplied with law books to the same extent that the library of the court of appeals is supplied with law books, and the expense thereof shall be defrayed in like manner.

§ 2. Said supreme court library shall be supplied with the reports of all the decisions of the various courts in the United States (excepting those of Massachusetts and New York), not heretofore agreed to be furnished by Banks and Brothers, by their contract made with the late state treasurer, pursuant to the act of eighteen hundred and fifty-nine; and said books shall be paid for in the same manner that books are paid for which are furnished to the said library of the court of appeals.

§ 3. Said supreme court library shall be supplied with all the books designated therefor in eighteen hundred and fifty-nine, by the justices of the supreme court of the sixth judicial district, which Banks and Brothers are not bound to furnish by their said contract; and said library shall also be supplied with such other law books as shall be necessary to complete said library, according to the original intention.

§ 4. All books purchased pursuant to this act shall be designated in writing, signed by a majority of the justices of the supreme court of the sixth judicial district; and said justices, or one of them, shall purchase said books on the credit of the state, and the same shall be paid for as hereinbefore prescribed by this act.

CHAP. IX.
Books to be
designated
in writing.

CHAP. 368.

AN ACT in relation to the Appraisal of Damages on the Canals, and for other purposes.

PASSED May 4, 1829.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be the duty of the canal appraisers personally to view the premises on which damages shall be claimed, and to meet at such times and places as they may deem necessary, and as nearly in the vicinity of the premises as conveniently may be, and hear such proper and relevant evidence as shall be offered, and direct the attendance of witnesses in behalf of the state, if in their opinion the interest of the state shall require it; and they are for that purpose empowered to administer oaths to witnesses; and willful false swearing before the said appraisers, is hereby declared perjury.

Powers and
duty of ap-
praisers.

§ 2. It shall be their duty to enter in a book to be kept for that purpose, the nature and extent of all claims on which they shall pass, the items on which allowances are made, and the several amounts allowed, and the items on which no allowance is made; and they shall enter at length the testimony taken, and the grounds and reason for their decision.

Claims to
be entered
in a book.

§ 3. Every person having exhibited a claim for damages to the appraisers, or the canal commissioners, where they shall deem the interest of the state to require it, may enter an appeal from the decision of the appraisers on such claim, to the canal board, who shall proceed to reverse, affirm or modify the appraisement, as in their opinion justice shall require; and their decision shall in all cases be final and conclusive.

Appeal to
canal board.

§ 4. Every such appeal shall be made in writing, stating briefly the grounds on which the appeal is made: if made by the canal commissioners, one copy of the appeal shall be served on the canal appraisers, and another on the party claiming damages, his guardian or agent, either personally or by leaving the same at his usual place of abode: if made by the party claiming damages, one copy of said appeal shall be served on the appraisers, or one of them, and another on the canal commissioners.

To be in
writing.

§ 5. It shall be the duty of the canal appraisers, within thirty days after any claim is decided upon, to make a transcript of the entry of such decision, and file the same in the

Decisions
where to be
filed.

PART I.

clerk's office of the county in which the premises passed upon are situate; and in all cases the appeal must be made, and the proper copies served, within three months from the time such transcript is filed in the clerk's office as aforesaid.

Return to
appeal.

§ 6. The appraisers shall make a return in writing, to every appeal so served on them, setting forth a copy of the claim for damages; a transcript of the evidence, if any; the items on which allowances were made, and the several amounts the items, if any, on which no allowance was made; and the reasons and grounds on which their decision is made.

Duty of
canal board.

§ 7. It shall be the duty of the canal board to meet, from time to time, and decide on all cases of appeals made from the decisions of the appraisers; and if, in their opinion, the interest of the state requires it, they shall direct the attendance of the appraisers, or either of them, to give evidence in relation to the subject matter of the appeal; they shall decide all cases of appeal on the evidence or information contained in the transcript furnished by the appraisers, and the evidence of the appraisers, if any is obtained.

Commissioner to
act with
appraisers.

§ 8. In all cases in which the canal appraisers are required to act by any law of this state, one of the acting canal commissioners shall be associated with them in their appraisal and final determination thereon.

Swearing
witnesses.

§ 9. Any member of the canal board is hereby authorised to administer oaths to witnesses on all matters which may be examined before said board; and wilful false swearing before said board is hereby declared to be perjury.

Canal board
may require
witnesses
to attend.

§ 10. The canal board may require the attendance of witnesses before them on the part of the state, if in their opinion the interests of the state require it; and for that purpose they may issue subpoenas, to be signed by their president for the time being, which shall be served by any sheriff or constable by said board thereunto required; and every person duly subpoenaed to attend before said board, who shall willfully neglect to obey such subpoena, shall forfeit fifty dollars, to be recovered with costs of suit, before any court having cognizance thereof.

Subpoenas.

§ 11. The canal board may allow and direct the canal commissioners, or commissioners of the canal fund, to pay to any officer such board may require to serve subpoenas, or to witnesses attending in pursuance of such subpoena, such sum as they may deem just and reasonable for such service or attendance.

Repeal.

§ 12. So much of Title nine of Chapter six of the First Part of the Revised Statutes, as is inconsistent with this act, is hereby repealed.

[There is no such Title in ch. 6. The Title referred to is undoubtedly in ch. 9.]

CHAP. 117.

AN ACT to amend the Seventh Article of Title Nine of Chapter Nine of the First Part of the Revised Statutes.

PASSED April 7, 1830.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The provisions of sections one hundred and sixty-nine, one hundred and seventy, one hundred and seventy-one, one hundred and seventy-two, and one hundred and seventy-three, of said article, are hereby amended so as to include fire-wood and fencing-posts in the list of articles therein enumerated, and intended to be secured from depredation.

Anta. vol. 1, p. 247.

CHAP. 293.

AN ACT in relation to the Appraisement of Damages on the Canals.

PASSED April 20, 1830.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. When any lands are overflowed by the erection of any dam by the canal commissioners on any river or stream connected with the public works, it shall be the duty of the canal appraisers to make a just and equitable appraisement of the damages sustained by the owners of such lands.

§ 2. The existing laws in relation to the appraisement and payment of damages, where lands are appropriated by the canal commissioners to the use of the public, shall apply to the appraisement of damages sustained by the owners of the lands mentioned in the foregoing section.

§ 3. No claim for damages for lands that shall have been overflowed by the erection of any dam by the canal commissioners, at any time before this act shall be in force, shall be received by the appraisers, unless it shall be exhibited within one year after this act shall become a law.

CHAP. 196.

AN ACT to prevent the interruption of the navigation of the canals.

PASSED April 22, 1833.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever the navigation of any of the canals shall be interrupted or endangered by reason of a deficiency of

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water, it shall be the duty of the canal commissioners, without delay, to supply such deficiency; and for that purpose they shall, by themselves or their agents, resumé the temporary use of all the surplus waters which shall have been leased upon the level of the canal where such deficiency exists; and in such case, if there shall still be a deficiency of water, then they shall have power to enter upon and use all lands, streams and waters, which in their judgment may be necessary or proper to be used, to procure a temporary supply of water for such canals.

13 N. Y., 244; 19 B., 657; 11 B., 387; 4 D., 356.

Damages.

§ 2. When damages shall be claimed by the owner of any lands, streams or waters, which shall have been used for temporary purposes under the authority given in the preceding section, such damages shall be agreed upon, or appraised and paid, in the same manner as is provided for the agreement or appraisal and payment of damages, in cases where land shall have been occupied for temporary purposes, or from which materials shall have been obtained for repairs; but no damages shall in any case be allowed for resuming the use of any surplus waters of the canals leased to any individuals.

Ib.

§ 3. The damages which any owner of lands, streams or waters, may have sustained at any time within two years prior to the passage of this act, by reason of the temporary use, by the canal commissioners or their agents, of such lands, streams or waters, for the purpose of preventing the interruption of the navigation of any canal, shall be agreed upon, or appraised and paid, in the manner provided in the preceding section: provided application for such damages shall be made within one year after the passage of this act.

CHAP. 276.

AN ACT to incorporate the Medina and Darien Railroad Company.

PASSED May 5, 1834.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Power of canal commissioners.

§ 17. The canal commissioners are hereby invested with a general and supervisory power over so much of any rail-road as passes over any canal or feeder belonging to this state, or approaches within ten rods of such canal or feeder, so far as such power may be necessary to preserve the free and perfect use of the canals or feeders of this state, and necessary for making any repairs, improvements or alterations in the same: and said company shall not construct their rail-road over or at any place within ten rods of any canal or feeder belonging to this state, unless said company shall lay before the commissioners aforesaid, a map, plan and profile, as well of the canal

or feeder as of the route designated for their rail-road, exhibiting distinctly and accurately the relation of each to the other, at all the places within the limits of ten rods as aforesaid; and shall thereupon obtain the written permission of said canal commissioners, with such conditions, instructions and limitations as, in the judgment of said canal commissioners, the free and perfect use of any such canal or feeder may require.

CHAP. 21.

AN ACT in relation to the canals.

PASSED March 4, 1835.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. All such rules and regulations in relation to the canals, as are now authorised by sections twenty-five, one hundred and forty-eight, one hundred and forty-nine, and one hundred and eighty-eight, of title nine of chapter nine of the first part of the Revised Statutes, to be made by the canal commissioners, or the commissioners of the canal fund, may hereafter be made by the canal board, with the like penalties and forfeitures as are now provided in said title.

Rules to be made by canal board.

Ante, vol. 1, pp. 222, 251.

CHAP. 287.

AN ACT in relation to the appraisal of damages on the canals, and for other purposes.

PASSED May 10, 1836.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. There shall be nominated by the governor, and appointed by him, with the consent of the senate, three officers by the name of canal appraisers, who shall hold their offices for two years and until their successors shall be duly qualified.

Three appraisers to be appointed.

3 H., 599.

§ 2. Every person appearing as a witness in pursuance of the command of any subpoena issued by a canal appraiser, shall be entitled to the same fees as are allowed to witnesses for attending courts of record in civil suits, to be paid by the claimants for damages, if subpoenaed on their part, or by the canal commissioners, if subpoenaed on the part of the state.

Fees of witnesses.

§ 3. Every person neglecting to appear, in pursuance of the command of any such subpoena, without good cause for such non-appearance, or when appearing, shall refuse to be

Penalty.

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sworn or to testify, shall forfeit the sum of fifty dollars, to be recovered with costs of suit before any court having cognizance thereof. If subpoenaed by the claimant for damages, to be sued for and recovered by such claimant, in his name and for his use; if subpoenaed to attend in behalf of the state, to be sued for and recovered in the name of the people of this state, for the benefit of the canal fund.

Notice of
meeting of
appraisers.

§ 4. It shall be the duty of the canal appraisers to notify the acting canal commissioner in charge of the line of canal on which damages are to be appraised, of the time and place of the meeting of the appraisers, to view the premises and take testimony in relation to such appraisals.

See Laws of 1866, ch. 836; and post, vol. 6, p. 870.

Commis-
sioners to
attend.

§ 5. It shall be the duty of one of the acting canal commissioners, in person or by agent, to attend in behalf of the state, before the canal appraisers, and procure or request the attendance and examination of witnesses on the part of the state, and if, in the opinion of the canal appraisers, the interests of the state require it, they may employ counsel on behalf of the state, on the hearing of claims for damages before them. Thus amended by Laws of 1855, ch. 535.

Decision to
be made.

§ 6. It shall be the duty of the canal appraisers to decide upon claims for damages, from the information obtained by them in viewing the premises, and from the evidence, if any, received by them from witnesses. See post, vol. 6, p. 869.

Books and
papers to
be depos-
ited.

§ 7. It shall be their duty to deposit the books and papers in relation to the appraisal of damages, when not required to be used by them in the discharge of their duties as appraisers, in the comptroller's office for safe keeping.

Appraise-
ment.

§ 8. No canal commissioners shall hereafter be associated with the canal appraisers in the appraisal of damages, nor shall any canal commissioner, who shall have attended in behalf of the state, before the appraisers, on the hearing of a claim for damages, have any voice as a member of the canal board, in the final decision of such claim on appeal.

Quorum.

§ 9. It shall be the duty of each of the appraisers to attend the meetings to be held for the appraisal of damages; but any two of them may perform any of the duties required of appraisers of damages, provided that the decision and determination on each claim shall be concurred in by at least two of the appraisers.

Lands, &c.,
used for
temporary
purposes.

§ 10. When damages shall be claimed by the owner of any lands, waters or streams, which the canal commissioners shall have occupied for temporary purposes, in the construction or improvement of any state canal, or other works connected therewith, or on which they shall have entered for the purpose of obtaining materials for the construction or improvement of such canal, or other works connected therewith, such damages, if not settled by agreement, shall be appraised by the canal appraisers.

§ 11. The proceedings in relation to the appraisal of such damages shall be, in all respects, the same as the proceedings in relation to the appraisal of damages for lands, streams or waters appropriated by the canal commissioners to the use of the public: except that no transcript of such appraisal shall be recorded in the clerk's office of any county.

11 B., 387; 4 D., 356.

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Proceed-
ings.

§ 12. Each appraiser, for each day's actual attendance in the discharge of the duties of his office, shall be entitled to receive the sum of four dollars, and for each mile actually travelled in the discharge of the duties of his office, five cents, to be paid out of the treasury; and where the services are rendered on the Erie or Champlain canals, shall be charged to the canal fund.

Pay of ap-
praisers.

§ 13. So much of title one, chapter five, and title nine, chapter nine, of the first part of the Revised Statutes; so much of the act providing for the payment of damages to real estate in consequence of breaches in the canals of this state, and for other purposes, passed March 5, 1829, and so much of the act in relation to the appraisal of damages on the canals, and for other purposes, passed May 4, 1829, as are inconsistent with this act, are hereby repealed.

Repeal.

CHAP. 384.

AN ACT relative to the Black Rock harbor.

PASSED May 20, 1836.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The acting canal commissioners are hereby authorized and directed, if in their opinion the public interest shall not be injured thereby, to prescribe the manner in which, and the places where, the owners of lands adjoining the Black-Rock harbor, may build piers and ware-houses, or make other erections, in or on said harbor, for the accommodation of lake vessels: Provided, that such piers, ware-houses and other erections, shall be so made as not to interrupt the canal navigation through said harbor, nor otherwise interfere with the proper use of the waters of said harbor for public purposes.

Piers and
warehouses

§ 2. The authority hereby given, is on condition that if said piers, ware-houses and other erections shall hereafter be found incompatible with the public interest, the same shall be removed when required by the legislature.

Condition.

CHAP. 143.

AN ACT regulating the price to be paid for land taken for the enlargement of the Erie canal.

PASSED April 3, 1837.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Land not to be taken in certain cases.

§ 1. Whenever the canal appraisers shall appraise any land embraced within any survey for the enlargement of the Erie canal, under the act passed May 11, 1835, entitled "An act in relation to the Erie canal," at a higher sum than in the opinion of a majority of the acting canal commissioners, shall be its fair value, such land shall not be taken by the state for the purpose of enlarging said canal on such appraisal.

Canal how to be improved in certain cases.

§ 2. If the canal commissioners shall not be able to procure a deed or deeds in fee to the state from the owner or owners of such land at such prices as they deem to be for the advantage of the state to give to enable them to enlarge the canal to the width determined upon by the canal board, they shall improve said canal by deepening the same seven feet, and widening the same as they may think proper, within the limits of the land originally appropriated and surveyed for the use of said canal.

Receiving and discharging freight and passengers in certain places.

§ 3. Where the surface of the water of said canal shall be less than the width determined upon by the canal board, by reason of the commissioners not being able to procure the title to the land for the price aforesaid, no boat shall be permitted to stop on said canal to receive or discharge any freight or passenger under a penalty of twenty-five dollars, to be prosecuted and recovered against the captain or owner of said boat, according to the provisions of article seven, title nine, chapter nine, of the first part of the Revised Statutes.

CHAP. 451.

AN ACT in relation to the canals.

PASSED May 16, 1837.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Drafts for payment of engineers.

§ 1. Either of the acting canal commissioners may draw upon the commissioners of the canal fund for any sum to be advanced to an engineer to meet the expenses of the engineer department; and if the bond of said engineer shall have been duly filed in the office of the comptroller, and a receipt of the engineer for such draft shall also be filed in the same office,

it shall be the duty of the commissioners of the canal fund to pay the draft; provided the advances to an engineer unaccounted for, shall at no time exceed the sum of five thousand dollars.

11 N. Y., 310; 11 B., 369.

§ 2. Before any advance shall be made to an engineer, he shall execute and file in the office of the comptroller, a bond to the people of this state, for the faithful expenditure of the moneys which shall be entrusted to him, in such penalty and form as the canal board shall direct, and with such sureties as the comptroller shall approve: upon which said bond the said engineer and his sureties shall be responsible to the state for moneys advanced to him as aforesaid.

Engineer to execute bond.

§ 3. Such engineer shall, as often as once in ninety days, render his account to the comptroller, who shall audit the same; and if he shall omit to render his account, or his accounts as rendered be not satisfactory, the comptroller shall notify the canal commissioners and the commissioners of the canal fund thereof; and no further advances of money shall be made to such engineer.

To account once in 90 days.

§ 4. Before any engineer's account for expenditures shall be presented to the comptroller, the canal commissioner having charge of that part of the canal on which such engineer is employed, shall certify on such account that he has examined the same; that the several disbursements specified therein were made under his direction on the canal, or for payments necessary to be made thereon; and that he believes such disbursements to be proper and reasonable, and to have been made as charged.

Accounts to be certified by a canal commissioner.

§ 5. The canal board shall have power to modify or reduce any of the penalties imposed by article seven, of chapter nine, title nine of the first part of the Revised Statutes.

Canal board may modify penalties.

§ 6. The original maps of the canals of this state, which purport to have been made and completed under and in virtue of the first article of title nine chapter nine of the first part of the Revised Statutes, which said maps are now filed in the office of the comptroller; and such maps of said canals as hereafter shall be made, completed, approved, signed, certified and filed under and in virtue of the act referred to, are hereby declared to be presumptive evidence that the lands indicated on said maps as belonging to the state, have been taken and appropriated by the state as and for the canals; and a transcript from any such maps, certified as required by the act referred to, shall be of equal effect with the original.

Maps of canals evidence of title to land.

§ 7. Before any advance of money shall be made to a superintendent of canal repairs by the commissioners of the canal fund, he shall make out a detailed statement, in such form as the said commissioners shall prescribe, of the several anticipated objects of expenditure on the line of canal under his charge.

Superintendent to make estimate.

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To be certi-
fied and
filed.

§ 8. If the said estimate shall be filed in the office of the comptroller, with the certificate thereon of the acting canal commissioner, stating that in his opinion, the whole amount or if less than the whole amount, what portion of the said estimate should be advanced, the commissioners of the canal fund may make advances on the same, in such sums, and as often as they may deem necessary: provided such advances shall not exceed the amount certified by the commissioner.

CHAP. 161.

AN ACT to procure useful information as to the public works of this state.

PASSED April 6, 1838.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Drawings,
plans and
specifica-
tions to be
filed.

§ 1. Every rail-road, canal and bridge company incorporated by this state, shall cause to be deposited with the comptroller, in the canal room, accurate drawings of the plans and specifications of the mechanical work hereafter to be constructed by such company, to be drawn on a scale and on paper to be designated by the board of canal commissioners, or by such other board of public works as may hereafter be organized by the legislature.

Map and
profile.

§ 2. Every such company shall cause to be deposited in like manner, a map and profile of every canal, rail-road or bridge hereafter to be constructed by them, drawn on a scale and on paper of a size and in a form to be in like manner designated.

CHAP. 207.

AN ACT in relation to bridges over the enlarged Erie canal.

PASSED April 20, 1839.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Road and
street
bridge
when to be
constructed

§ 1. The canal commissioners are hereby authorized and required to construct and hereafter maintain at the public expense, road and street bridges over the enlarged Erie canal, in all places where such bridges have been heretofore constructed, if in their opinion the public convenience requires that they should be continued, whether the same have been heretofore maintained at the expense of the state, or of the towns, cities or villages where they are situate.

Farm
bridges.

§ 2. The said commissioners are also authorized to construct farm bridges over said canal in all places where the

same, in their opinion, are reasonably required, in reference to the accommodation of the owner of the land and a due regard to economy, to the state, and the convenience of navigation. But neither this nor the preceding section shall be construed to abridge the power of the canal commissioners in relation to streets, roads and bridges, as now provided by law.

Proviso.

§ 3. Whenever a farm bridge shall be constructed in lieu of one heretofore maintained by the owner or owners of the land, and damages shall be claimed by such owner or owners for the appropriation of lands or other injury done in such enlargement, the benefit derived by such owner or owners, by being relieved from the expense of maintaining the former bridge over the canal, shall be set off against any damages so claimed. Post, p. 161.

Benefits from bridges to be set off against damages.

§ 4. The said commissioners are also hereby authorized in all cases, where in their opinion the same can be done consistent with the public interest, to commute with owners and claimants of bridges over the canal, by paying such owner or claimant such sum in lieu of a bridge as may be agreed upon between the claimant and said commissioners. And in all cases where in the opinion of said commissioners a bridge over the canal ought not to be rebuilt, and the sum to be paid for commutation shall not be agreed upon as aforesaid, the said bridge shall not be built, but the damages sustained by such owner or owners by being deprived of such bridge, and which the state, under all the circumstances, ought of right to pay, shall be appraised by the canal appraisers and paid by said commissioners.

Commutation for bridges.

Damages for not building

§ 5. In all cases where damages shall be claimed for being deprived of a bridge which the claimant had before constructed or maintained, the circumstance of his being equitably bound to contribute towards the construction and maintenance of an enlarged bridge, a sum equal to the expense of the maintenance of a bridge proportioned to the size of the original canal shall be taken into consideration by the appraisers, and a proper amount on that account shall be set off against any damages to which the claimant might otherwise be entitled.

Set off against damages.

§ 6. The proceedings in relation to the appraisal of such damages, shall be in all respects the same as the proceedings in relation to the appraisal of damages for lands, streams or waters appropriated by the canal commissioners to the use of the public; and appeals from such appraisal may be made in the same manner.

Appraisalment how to be made.

CHAP. 262.

AN ACT regulating tolls upon the Chenango canal.

PASSED April 27, 1839.

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*Rates of
toll.

§ 1. The same toll shall hereafter be charged on all articles and passengers transported upon the Chenango canal as is charged upon the Erie canal, so long as the interest on the Chenango loan is regularly paid.

CHAP. 316.

AN ACT in relation to the use of surplus water on the Oswego canal.

PASSED May 2, 1839.

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*Permission
may be
given to use
water.

§ 1. The canal commissioners are hereby authorized to permit the surplus water flowing over any of the dams on the Oswego river to be used for hydraulic purposes, by the owners of the lands, over or upon which such waters may flow, under such regulations and restrictions as they may impose and subject to be resumed, in whole or in part, whenever they shall think proper, without any right of the persons receiving such permission to claim any damages or compensation for such resumption; but such permission shall not be given to use any water on the levels of the said canal, nor the water at the dam nearest the village of Oswego.

CHAP. 333.

AN ACT concerning the allowance of clerk hire to the canal appraisers, and for other purposes.

PASSED May 4, 1839.

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows:*Clerk hire
and sta-
tionery
allowed to
canal ap-
praisers.

§ 1. There shall hereafter annually be allowed to the canal appraisers for clerk hire, not exceeding the sum of four hundred dollars, for the expenditure whereof they shall account to the comptroller, the said sum to be paid in quarterly payments by the treasurer on the warrant of the comptroller; and the treasurer shall also pay to the said canal appraisers upon the warrant of the comptroller, such reasonable sum as

shall be necessary for stationery to be used by them in the duties of their office; and also the sum of ninety-seven dollars and fifty cents, being the amount paid by them to Samuel S. Randall, for services heretofore rendered as an engrossing clerk.

3 H., 599.

§ 2. There shall be allowed to the treasurer of this state, in the treasurer's office, the sum of one thousand nine hundred dollars annually, in lieu of the present allowances for clerk hire in said office; which sums shall be paid in the same manner as the salaries in the comptroller's office are paid.

Treasury
office clerk
hire \$1,900
yearly.

CHAP. 201.

AN ACT to authorize the Canal Board to grant a rehearing of any case they are authorized to adjudicate.

PASSED May 2, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The canal board are hereby authorized to grant a rehearing, in any case they now are, or may hereafter be, authorized to adjudicate, whenever, in their judgment, the justice of the case may require it; but no party shall be entitled to but one rehearing, and the adjudication upon such rehearing shall be final and conclusive; but no such rehearing shall be granted, unless application in writing shall be made therefor, within sixty days after such case shall have been adjudicated by the said board.

3 H., 599.

CHAP. 292.

AN ACT relating to the powers and duties of the canal board.

PASSED May 13, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever the canal commissioners shall construct, and in every case where they have heretofore constructed any dam, pier, mole or other work in any canal, lake, river or other body of water, the canal board is hereby authorized and empowered to grant permission to such extent and on such terms, conditions and stipulations as said board may deem proper, to any person to erect on such dam, pier, mole or other work, any warehouse, mill or other building, suited and intended to be used for commercial or manufacturing purposes, or for any purpose incidental and auxiliary thereto

Rights may
be granted
to erect
buildings,
&c. on
dams.

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and to use such amount of water power created by such dam, pier, mole or other work, as may in the opinion of the canal board be so erected and used without injury to such dam, pier, mole or other work, and without detriment or obstruction to the public use thereof, or to the navigation of such canal, lake, river or other body of water therewith connected; but such permission as aforesaid, shall not be granted in any case other than the pier in the Niagara river at Black-Rock, to any person who is not the owner of the land over which the water to be used flows, or the owner of the land adjoining the river or other stream of water at the place where any such dam, mole or other work is or shall be erected.

Orders to be made and entered on the minutes at full length.

§ 2. Whenever the canal board shall grant any permission under this act, such permission shall be expressed by a resolution of said board entered at full length on its minutes, and including all such terms, conditions and stipulations as the board may deem expedient, and such permission shall be executed by a written lease, in duplicate, to be signed by the Comptroller in the name of the people of the state of New-York, and by the lessee on the other part, and one duplicate of such lease shall be deposited in the canal room for the use of the canal board, and the other duplicate shall be delivered to the lessee; and a copy thereof, or of the resolution aforesaid, certified by the clerk of the canal board, shall in all cases be evidence equally and in the same manner as the original.

Lease.

Buildings, where and how to be constructed

§ 3. Every building erected by the permission of the canal board under this act, shall be erected on such part of any dam, pier, mole or other work, and shall be constructed on such plan, and shall not exceed such dimensions as may receive the approval and consent of the board of canal commissioners, and be by them specified in a written resolution, to be entered at full length in the minutes of that board, and a copy of such resolution certified by the secretary of said board, with the written assent of the lessee thereto annexed, shall be delivered by the said secretary to the clerk of the canal board, to be deposited in the canal room before the delivery of the lease mentioned in the preceding section. A copy of such resolution of the board of canal commissioners, certified by the secretary thereof, shall in all cases be evidence equally and in the same manner as the original.

Surplus waters.

§ 4. This act shall not impair the restriction as to leasing surplus waters, made by joint resolution of the Senate and Assembly, passed April 25, 1831.

CHAP. 372.

AN ACT in relation to the bridges over the State canals.

PASSED May 14, 1840.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The provisions of the fourth section of the "act in relation to bridges over the enlarged Erie canal," passed April 20, 1839, shall be applicable to the several canals of this state.

Certain
section
extended.

Ante, p. 156.

§ 2. Whenever the canal commissioners shall deem that the state may be reasonably required to erect a farm bridge over any of the canals of this state, for the accommodation of the owner or owners of adjacent lands, and they cannot commute for said bridge with such owner and claimant on satisfactory terms, in case the said commissioners determine that a private road through adjacent lands will sufficiently accommodate such owner or claimant, they are hereby authorized to apply to the commissioners of highways of the town in which such lands lie, to lay out a private road for the accommodation of such owner and claimant, under the provisions of Article four, Chapter sixteen, Title first, Part first of the Revised Statutes; and such damages as may be assessed to the owner of the lands through which said road is laid out, shall be paid by the commissioners, when the same can be done with a due regard to economy to the state.

Private
road to
bridges
how to be
had.

Ante, vol. 1, p. 472.

CHAP. 160.

AN ACT respecting the powers and duties of the canal board and the commissioners of the canal fund.

PASSED April 30, 1841.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The canal board shall have power from time to time to fix the rates of toll on all the canals of this state, or any portion thereof, which has or may become navigable, so as to make them uniform and corresponding with those charged on the Erie and Champlain canals, and to prescribe regulations for the collection of such tolls, and impose forfeitures of money for the breach thereof, in the same manner as now provided by law in respect to the completed canals.

Rates of toll
to be fixed.

§ 2. No petition under the fourth Article of the ninth Title and ninth Chapter of Part First of the Revised Statutes, for extra allowance to any contractor for work performed on any canal before the passage of this act, shall be received or acted

Provision
as to extra
allowance
to contract-
ors.

PART I.

Charges against superintendents and collectors how to be inquired into.

upon by the canal board unless it shall be presented within one year after this act takes effect, and no petition for extra allowance for work performed after this act shall take effect, shall be received or acted on by the canal board, unless the same shall be presented within one year after the performance of such work. *Anta*, vol. 1, p. 230.

§ 3. The canal board may direct the district attorney of the proper county to conduct an inquiry into the truth of any charges made or to be made against any superintendent, collector or other officer appointed or employed by such board, or by the canal commissioners, and the same proceedings shall be had thereon in all respects as provided by the fourth Article of the sixth Title and fifth Chapter of Part First of the Revised Statutes, in relation to charges against a sheriff or county clerk, except that the testimony so taken shall be transmitted to the canal board, and the necessary expenses of any such inquiry shall be certified by the canal board and paid by the commissioners of the canal fund, out of the canal revenues.

Three members of the board may take testimony.

§ 4. Any three members of the canal board, designated by the said board, shall be competent to take and reduce to writing, any testimony offered to the board in relation to claims for extra allowances to any contractor.

Amount of award for damages to be deposited in bank.

§ 5. When any damages shall have been awarded by the canal appraisers, or settled by the canal board for appropriating any lands, streams or waters to the use of any canal, and it shall appear that there is any mortgage, judgment or other lien or incumbrance upon the property appropriated, the commissioners of the canal fund may, in their discretion, deposit the amount so awarded or settled in any bank selected for the deposit of canal revenues, to the account of such award, to be paid and distributed to the parties entitled to the same, as shall be ordered by the court of chancery on the application of the said parties, or any of them.

CHAP. 274.

AN ACT in relation to the surplus waters of Black Rock Harbor.

PASSED April 12, 1842.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Proceedings in case of non-payment of rent.

§ 1. Whenever any lease for surplus waters of Black Rock harbor, may become liable to forfeiture in consequence of the non-payments of the rents due thereon; before declaring the same forfeited, the Comptroller shall give at least six months' notice, in two newspapers published in the county of Erie, that the same will be forfeited unless the rents due shall then be paid, with the costs of such advertising: if the rents shall

not then be paid, the canal board may direct that any separate privilege of taking and using water included in such lease, the rent on which separate privilege has been regularly paid, which shall be occupied and applied to any machinery, shall be separately exposed to sale; or they may require the canal appraisers to estimate and appraise the value of such separate privilege, having reference to the terms of the original lease and subject to the approval of the canal board; and upon receiving such appraisal the canal board may sell such privilege to the person so occupying the same, as shall be deemed just and equitable, under the circumstances, and may thereupon cause a lease for such privilege to be executed according to law.

CHAP. 181.

AN ACT to prohibit members of the Canal Board and officers on the canals from becoming interested in any contracts or hydraulic works, and for other purposes.

PASSED April 18, 1843.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The one hundred and eighty-sixth section of title nine; chapter nine of the first part of the Revised Statutes, is hereby amended so that it shall read as follows :

No canal commissioner or other member of the canal board, or superintendent, engineer or person holding any appointment under the canal commissioners or any one of them, or under any superintendent of repairs, or other officer on the canals, shall hereafter become interested in any hydraulic work dependent on the canals for a supply of water, or become interested in any line of boats regularly navigating the canals, or shall either directly or indirectly become interested in any contract on the canals as a contractor, surety or otherwise, either in his own name or in the name of any other person, or shall either directly or indirectly derive any benefit from the ordinary or extraordinary expenditures on the canals beyond his established compensation; and if any canal commissioner, member of the canal board, superintendent, engineer or person holding any appointment under the canal commissioners or any one of them, or under any superintendent of repairs or other officer on the canals, shall at any time hereafter become interested or derive any benefit as aforesaid, he shall forfeit his office or appointment.

§ 2. Whenever charges shall be preferred under the above section, against any engineer or other officer or person holding their appointment from the canal commissioners or any one of them, or from a superintendent of repairs or other officer on the canals, it shall be the duty of the board of canal com-

Prohibition
Charges to be investigated by canal commissioners.

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missioners to investigate the same; and whenever charges are preferred against any officer holding his appointment from the canal board, it shall be the duty of the canal board to investigate said charges; and it shall be the duty of said boards, respectively, to dismiss said officers or persons if the charges are sustained; and all contracts made in violation of this act, are hereby declared to be void.

CHAP. 278.

AN ACT in relation to the public works and the officers connected therewith.

PASSED May 12, 1847; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Commis-
sion and
oath of
engineers.

§ 1. Every engineer employed by virtue of the 15th section, article second, title nine of chapter nine of the First Part of the Revised Statutes, shall be furnished with a copy of the resolution of his appointment by the canal commissioners, certified by the secretary of the board; and before entering on the duties of his office, such engineer shall take the constitutional oath and file the same in the office of the secretary of state.

Money to
contractors.

§ 2. No money shall hereafter be advanced or paid to any canal contractor on his contract, except on the sworn certificate of an engineer, in such form as the canal board shall prescribe, that he has actually measured the work or material included in the certificate, and believes that the quantities therein stated do not exceed the amounts actually performed or delivered by the contractor, which certificate shall be sworn to before either of the canal commissioners or any judge or justice of the peace.

Measure-
ment to
accompany
receipt.

§ 3. The sworn measurement referred to in the preceding section shall be given to the canal commissioner, and shall accompany the receipt of the contractor when presented at the canal department for final audit.

Engineers
to record
measure-
ments.

§ 4. Every engineer on whose certificate payments are made for any public work shall enter in a book to be kept for that purpose every measurement made by himself or his assistant, with such explanation in regard to the location and character of the material, if the same has not been placed in the public work as will enable his successor to identify and secure the material for the use of the state, and on leaving the public service, such book of measurements shall be deposited with the secretary of the board of canal commissioners.

Boats, im-
plements
and materi-
als, how to
be furnished
for repairs.

§ 5. Each canal superintendent under such regulations as shall be prescribed by the canal board, shall procure all boats, wheelbarrows, tools and implements, lumber, stone and other materials required for the ordinary repairs of the canals by giving notice for two weeks in two papers designated to

publish the laws in each county through which his section of the canal passes, of the day and hour when sealed propositions will be received for the supply of the articles required. In addition to the requirements of sections thirty-four and thirty-five, article two, title nine of chapter nine of the first part of the Revised Statutes, the canal board shall prescribe such rules in regard to the notice to be given, and the time and manner of receiving and opening proposals as will effectually secure the rights of the bidders and the interests of the state, and in re-building locks, bridges and other structures on the finished canals the canal commissioners shall contract for the same on sealed propositions except during the season of navigation.

§ 6. Every person proposing to become a contractor for furnishing materials or tools under this act shall accompany his proposals by an engagement, substantially in such form as said canal board shall prescribe, signed by some responsible person or persons guaranteeing that said person or persons making such proposal shall within ten days after the acceptance of his or their proposals by said commissioners, enter into a contract in writing with said commissioners and their successors in office for the faithful performance of such proposals; and if any person or persons to whom any contract may be awarded shall neglect or refuse to enter into such contract within such time as is herein prescribed for that purpose, it shall be the duty of said commissioners to receive further proposals for furnishing such materials and tools as remain uncontracted for by reason of such neglect, and to prosecute the person or persons so neglecting to enter into contract according to their proposals and their sureties for such damages as the state may have sustained by reason of such neglect or refusal.

Proposals
how to be
made.

§ 7. Every contractor shall give satisfactory security to the canal commissioners for the faithful performance of his contract, and if any person or persons having entered into any such contract shall fail, neglect or refuse to perform his contract or the requisitions of the canal commissioners or superintendent having the oversight and charge thereof, made in conformity with such contract, such contract may by said canal commissioners be declared abandoned, and such person or persons shall be thereafter excluded from any interest in any future contract in relation to the same and all similar objects.

Contractors
to give
security.

§ 8. If any contractor for the furnishing of any tools or materials upon any section or sections of any of said canals shall fail, neglect or refuse to perform his contract relative thereto, or to comply with any requisition made in accordance therewith of any acting canal commissioner or superintendent in charge of any such section or sections, it shall be the duty of such commissioner or superintendent under his order to procure all such tools and materials as may be necessary for

Penalty for
neglect or
refusal to
perform
contract.

PART I.

immediate use and until such contract shall be re-let, and such contractor and his sureties shall be liable for all damages which may result from such neglect or refusal, together with all necessary extra cost of materials and tools over and above the contract price, rendered necessary to be purchased or procured by any commissioner or superintendent by reason of such neglect or refusal.

In case of
breaches,
&c. deficiencies to
be supplied.

§ 9. In the event of any breach or other extraordinary event rendering necessary an increased quantity or amount of materials or tools upon any section of said canals, the supply of which cannot consistently with the safety and requisite good reparation or condition of said canals to be obtained under and by virtue of the contracts herein required to be made in season for the exigencies of the occasion, any canal commissioner or superintendent in charge of any portion of said canals where such necessity may exist, is hereby authorized and required to supply any deficiency that may be found to exist upon the best practicable terms for the interest of the state, rendering to the canal board as soon as consistent thereafter, a just and true detailed statement of the materials or tools purchased and of the circumstances rendering such purchase necessary, which statement or a copy thereof shall be communicated to the legislature at its next session. But nothing herein contained shall be so construed as to permit the purchase of any materials or tools for the supply of which contracts are in existence in any other manner than by contract, whenever the same can be procured by contract without delay to the navigation of the canals or injury to the interests of the state.

Materials
and tools
furnished
to be ex-
amined.

§ 10. All materials and tools purchased by and delivered or offered for delivery in pursuance of any contract made under the provisions of this act shall be carefully and thoroughly examined and inspected by an acting canal commissioner or superintendent in charge of the section where the same may be delivered for such use, and such examination and inspection is hereby required to be made by the commissioner in person as far as shall be consistent with the discharge of his other necessary official duties; and the officer making such examination and inspection shall immediately thereafter make a report to the canal board of such examination and inspection, in which he shall state the quantity, quality and amount or number of the materials or tools examined and received or rejected as being or not being in conformity with the contract under which they may be offered for acceptance, and when any portion of such materials or tools shall be rejected as not in conformity with the contract the reasons for such rejection shall be stated and set forth in such report, which shall contain an account of the time when and place where such examination was made, and the section or sections for which such materials or tools were designed for use so far as the same are accepted, specifying the quantity, number and

amount by items, of all materials and tools for each and every of said sections for repairs, and which said report shall be made under the oath or affirmation, before some proper officer authorized to administer oaths, of the person or persons making the same.

§ 11. All contracts made in pursuance of this act shall contain a provision for the speedy and equitable adjustment of all questions that may arise relative to the performance or otherwise of any said contracts.

Provision
in contracts

7 B., 211.

§ 12. The commissioners of the canal fund are hereby authorized and required to pay from the moneys in their hands which may at the time be appropriated for the repairs of the canals of the state, all such sums of money as shall from time to time become due to contractors by reason of the performance of any contract entered into in pursuance of this act, but no such payment shall be made for any materials or tools except such as shall have been accepted as being in conformity with the contract under which they were delivered, and of which acceptance the report required by the tenth section of this act shall have been duly filed with the canal board or in the office of the clerk of the canal department, and when such report shall have been made by a superintendent of repairs and not by the commissioner having charge of that portion of the canals where such materials or tools were delivered and accepted, it shall be the duty of the commissioner so in charge, and he is hereby required to state that such materials and tools were in his judgment necessary for use upon the section where delivered, or would become necessary within a period in such statement to be specified, that the purchase thereof is in his belief in pursuance of some contract, specifying with whom and the reasons why such examination was not made by himself in person, which statement shall be verified by the oath or affirmation of the commissioner making the same, annexed to such report and filed therewith.

Money
when and
how to be
paid for
repairs, &c.

§ 13. All work connected with the enlargement and improvement of the Erie canal done under contracts made by the canal commissioners shall be kept distinct as far as practicable from the ordinary repairs of the canal by superintendents. The regulations of the canal board made in compliance with the provisions of the preceding sections of this act shall apply to all proceedings of the canal commissioners and engineers in giving notice and receiving propositions in relation to any of the public works.

To be separated from
repairs.

§ 14. It shall be the duty of each acting canal commissioner at least once in thirty days during the season of canal navigation, to visit and examine every part of the line of canal assigned to his special charge, and as often as three times in each season to give public notice of such visitation, and that he will attend to such complaints as may be made under the

Commissioners to
visit line of
canal.

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fifth subdivision, section twenty-nine, article two, title nine of chapter nine of the first part of the Revised Statutes, and for the service required in this section, the commissioner shall be allowed six cents for each mile travelled on the line of his division of the canals; but the aggregate mileage in one year to any commissioner shall not exceed the sum of two hundred dollars. And if from sickness or any other cause the acting commissioner on any division cannot or does not attend to this duty, the service shall be performed by the state engineer and surveyor or the chief engineer at the same rate of compensation.

Oaths.

§ 15. Weigh masters on the state canals and inspectors of canal boats are hereby authorized to administer oaths when it becomes necessary in the discharge of their duties.

CHAP. 162.

AN ACT in relation to the canal department.

PASSED April 3, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Auditor to be appointed.

§ 1. There shall be an auditor of the canal department, who shall be appointed in the same manner, and receive the same compensation as is now provided by law in relation to the chief clerk of the canal department, and the said office of chief clerk of the canal department is hereby abolished.

13 N. Y., 242.

His powers and duties.

§ 2. All the powers and duties of the chief clerk of the canal department, and all the powers and duties of the comptroller in relation to the canals, except his powers and duties as commissioner of the canal fund, are hereby transferred to, and vested in the said auditor; and the said auditor shall also be secretary of the commissioners of the canal fund, and of the canal board.

Seal to be devised and procured.

§ 3. The commissioners of the canal fund shall devise and procure a suitable seal for the said auditor, of which he shall have the custody, and a description thereof shall be recorded in the office of the secretary of state, and remain of record, the expense of which shall be paid out of the canal fund.

Books and papers, where to be deposited.

§ 4. All books and papers pertaining to the duties of said auditor, or to the duties of the commissioners of the canal fund, or of the canal board, shall be deposited in the canal department, and be securely and safely kept by said auditor.

Copies to be evidence.

§ 5. Copies of books or papers mentioned in the preceding section, and transcripts from the minutes of the proceedings of the commissioners of the canal fund, and of the canal board, certified by the said auditor under his official seal, shall be evidence equally and in like manner as the original.

§ 6. The power now given by law to the commissioners of the canal fund to employ and pay the necessary clerks in the canal department, is hereby vested in the said auditor, and the names of the clerks employed, and the sums paid to each, and the length of time he was employed, shall be annually reported by the auditor to the legislature at the commencement of its session.

CHAP. IX.
Auditor to
employ and
pay clerks.

§ 7. The statement of the tolls collected upon all the canals of the state during each season of navigation, which by section twenty-seven, of chapter three hundred and twenty, of the laws of eighteen hundred and thirty-one, the commissioners of the canal fund are required to prepare and lay before the legislature, shall be so prepared and laid before the legislature by the said auditor, and in addition to the tolls collected, it shall contain an exhibit of the trade and tonnage of the canals, substantially as the same is given in the report for the year eighteen hundred and forty-seven.

Auditor to
prepare
statement
of tolls, &c.

§ 8. Dues to the state which have heretofore been paid to the commissioners of the canal fund, shall on and after the first day of October next be paid into the state treasury.

Dues to be
paid to
auditor.

§ 9. All balances standing to the credit of the commissioners of the canal fund on the first day of October next, in any depository shall as of that date be transferred by the said commissioners to the credit of the treasurer of the state.

Balances
how to be
credited.

§ 10. Whenever directed by the commissioners of the canal fund, the treasurer shall transfer from one depository to another, by a draft to be countersigned and entered by the said auditor, any canal fund moneys standing to his credit, and no such moneys shall be transferred by the treasurer from one depository to another, unless by such direction.

Treasurer
when to
transfer
deposits.

§ 11. All moneys now authorised by law to be paid or advanced by the commissioners of the canal fund, and all moneys which shall hereafter be authorised to be paid or advanced from the canal fund, shall on and after the first day of October next, be paid by the treasurer, on the warrant of the said auditor; but no warrant shall be drawn, unless authorised by law, and every warrant shall refer to the law under which it is drawn.

Payments
after Oct. 1,
1848.

§ 12. The said auditor shall countersign and enter all checks drawn by the treasurer in payment of his warrants and all receipts for canal moneys paid to the treasurer, and no such receipts shall be evidence of payment unless so countersigned.

Checks to
be counter-
signed.

§ 13. The accounts of receipts and payments on account of the canals, and the canal fund and debt, heretofore kept by the commissioners of the canal fund, shall, on and after the first day of October next, be kept by the said auditor.

Accounts
how kept.

§ 14. As soon as possible after the close of each fiscal year, the said auditor shall submit to the commissioners of the canal fund a statement of the receipts and payments on account of the canals and the canal debt, and the balances of

Auditor to
make state-
ment at
close of fis-
cal year.

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Provision
in case of
sickness or
absence.

the funds on hand, the depositories of the same, and the conditions thereof; which statement shall accompany the annual report of the said commissioners to the legislature.

§ 15. In case of the absence or sickness of the said auditor, he may designate one of his clerks as acting auditor, who may perform any of his duties, except the drawing of warrants on the treasury, and the auditing of accounts.

CHAP. 348.

AN ACT in relation to canal contracts.

PASSED April 11, 1849.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Restriction
as to extra
allowance
to contrac-
tors.

§ 1. The canal board shall not have power to make extra allowances to contractors on any of the public works of this state whose contracts shall be entered into after the passage of this act, but the said canal board is hereby authorized to cancel such contracts on the application of the parties thereto, for good cause shown and to direct the canal commissioners to settle for the work done under the same, and relative prices according to the terms and conditions thereof, and the canal commissioners may immediately thereafter proceed to re-let such work according to law.

Provision
relative to
the manner
of execut-
ing the
work under
contract.

§ 2. No alteration shall hereafter be made in the manner of executing or performing the work under any contract, which shall materially increase or diminish the quantity of material to be furnished or work done under such contract, unless such alteration shall be expressed in a writing signed by the parties to the contracts or by the canal commissioners in pursuance of the provisions of the contract of which writing there shall be made the same number of copies to be deposited in the same places as is provided in relation to contracts on the public works.

CHAP. 352.

AN ACT in relation to the canal and canal damages.

PASSED April 11, 1849; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Land when
to be sur-
veyed and
taken.

§ 1. Whenever any tract or parcel of land shall be divided by the location or enlargement of any of the canals of this state, and the canal board shall be of opinion, that it is necessary for the public use, to take and appropriate either portion of such land, the canal commissioner shall cause a survey and map of such portion of such land to be filed in the office of the clerk of the county where such land is situated and there-

upon the title to such portion of land shall vest in the state in the same manner as other land taken by the state for the construction of the canal.

§ 2. The owner of any land taken by the state as provided in the last section shall be entitled to compensation and damages for the lands so taken, to be ascertained and appraised in the same manner as for lands taken and appropriated for the construction of the canal.

Compensation how made to owner.

§ 3. Whenever the canal board, shall by resolution determine that any lands taken for the purposes of the canal, may be sold beneficially to the state, the commissioners of the land office may sell, grant, and convey the right, title, and interest of the state in such lands and the proceeds of such sale shall be credited to the fund appropriated for the construction of the canal for which such lands were taken.

Lands taken for canals may be sold.

§ 4. Whenever the canal board shall upon the hearing of any appeal from the award of the canal appraisers, reverse or modify such award they shall state in the resolution or order relating to said appeal the grounds for such reversal or modification and how much, if any, such award is increased or diminished; and a copy of such resolution or order shall be immediately filed with the canal appraisers, and also a copy of every resolution of affirmance.

Provision relative to reversal of awards of appraisers.

24 N. Y., 583. See vol. 6, p. 870.

§ 5. The canal appraisers shall make an annual report to the legislature at the commencement of the annual session thereof, which shall contain,

Canal appraisers to report annually to legislature.

1. The names and residences of the several claimants who have preferred claims.

2. The nature of the claim and the amount claimed.

3. What action has been had upon each and the reason thereof, and if an award has been made the nature and amount thereof.

4. Whether an appeal has been taken in any case, and if the appeal has been decided, the nature of the decision.

§ 6. All the books, records and papers, relating to canal damages, or their appraisal, in the comptroller's office and in the particular care and keeping of the auditor of the canal department, except the books, papers, and proceedings of the canal board and those relating thereto, shall be transferred to and remain in the apartment of the canal appraisers and in their charge and keeping.

Certain books, records, &c. to be transferred to canal appraisers.

§ 7. The canal appraisers, together with the auditor of the canal department shall appoint some suitable person to arrange and systematise such of the books, records and papers as are to be transferred by the last section, and as required to be so arranged and systematised, the compensation of such person to be certified by the canal appraisers. shall be paid by the treasurer on the warrant of the comptroller, provided it shall not exceed the sum of one hundred dollars.

A person to be appointed to arrange such books and records.

CHAP. 363.

AN ACT for the purchase of materials and tools for the ordinary repairs of the canals.

PASSED April 11, 1849.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Materials
and tools
how pur-
chased.

§ 1. The canal commissioners are hereby authorized to direct the superintendents of canal repairs to purchase materials and tools for the ordinary repairs of the canals, without advertising for the same, whenever in their opinion the interests of the state will be promoted thereby; and shall not be bound to accept proposals unless they deem it for the interests of the state.

CHAP. 268.

AN ACT to authorize the transportation of live stock and fresh meats, rail roads free from canal tolls.

PASSED April 10, 1850.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. Neat cattle, horses, sheep and fresh meats may hereafter be transported upon any rail road in this state without being liable to the payment of canal tolls.

CHAP. 278.

AN ACT to secure the payment of wages to laborers, employed on the canals and other public works of this state.

PASSED April 10, 1850.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Contractors
required to
give bonds
to pay their
laborers.

§ 1. It shall be the duty of any canal commissioner or other officer having charge of the letting of any contract for work on any of the canals or other public works of this state, to require and take, in addition to the bond now required by law for the security of the state, a bond with good and sufficient sureties not less than two, conditioned that such contractor shall well and truly pay in full, at least once in each month, all laborers employed by him on the work specified in such contract, which bond shall be duly acknowledged before an officer authorized to take acknowledgment of deeds, and

filed by the officer taking the same, in the office of the clerk of the county, wherein such work or contract is to be performed. And when such work shall be partly in two or more counties, there shall be such a bond filed in the clerk's office of each county.

24 B., 541.

CHAP. IX.
Bond where
filed.

§ 2. Suits may be commenced on said bond before a justice of the peace, when the amount claimed shall not exceed the jurisdiction of a justice of the peace, and a transcript of such bond, duly authenticated, by the county clerk, may be used in evidence in such suit.

Bonds
when prose-
cuted.

§ 3. The bringing of a suit by one or more laborers, upon such bond, shall not operate as a bar to the bringing of other suits thereon, by any of the parties for whose benefit such bond was taken, and to whom such contractor shall be indebted for labor. But no recourse shall be had to the sureties upon such bond, unless proceedings shall be commenced within thirty days after the completion of the labor, the payment of which is secured by such bond. But nothing in this act contained shall prevent or bar a suit against such contractor within the time limited by law.

Suits how
brought.

CHAP. 377.

AN ACT prescribing the powers and duties of the State Engineer and Surveyor, and of the engineers employed on public works.

PASSED April 10, 1850; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The canal board may appoint so many division engineers not exceeding three, and so many resident engineers not exceeding twelve, and so many first assistant engineers, from time to time as they shall deem the public interest to require. The state engineer and surveyor shall prescribe and define the duties of the said engineers so appointed, and shall assign a division of the canals to each division engineer corresponding with the divisions of each canal commissioner, and to each resident engineer such subdivision of the canals and to the first assistant engineers such location as they may deem proper.

Division
engineers.

§ 2. Each resident engineer, with the consent of the division engineer of the division of the canals, on which such resident engineer is located, shall appoint so many second assistant engineers, overseers of work and other persons as may be necessary to enable him properly to discharge his duties.

Resident
engineers.

§ 3. The compensation of the engineers appointed in pursuance of the first section of this act, shall be fixed by the

Compensa-
tion of engi-
neers how
fixed.

PART I.

canal board, and the compensation of persons appointed in pursuance of the second section, shall be fixed by the state engineer and surveyor, and the division engineer of the division on which they are appointed.

Engineers
to give
bonds.

§ 4. A schedule containing a statement of the names of persons appointed under this act, the nature of their duties severally, and the compensation allowed each shall be filed in the office of the state engineer and surveyor, and in the canal department, and every engineer so appointed, excepting second assistant engineers, shall, before entering upon the duties of his office, file in the canal department his bond duly executed to the people of the state, in such sum and with such security for the faithful discharge of his duties as the auditor may approve, and shall take and subscribe the constitutional oath of office, which oath shall be filed in the office of the secretary of state. No money shall be advanced to any engineer on account of services rendered, nor shall any account of monies disbursed by him be audited until the provisions of this section, so far as relates to said engineer, shall have been fully complied with.

State engi-
neer to
visit all the
canals once
in each
year.

§ 5. The state engineer and surveyor shall visit and carefully inspect all the canals of this state, at least once in each year, and shall make such additional visits and examinations of the whole or any portion thereof, and shall communicate to the canal board and to the canal commissioners such information and suggestions, from time to time, in relation to the improvement and maintenance of the canals, as he may deem the public interest to require.

Before any
work is
undertaken
state engi-
neer and
surveyor is
to cause
surveys,
maps, &c.
to be made
and submit-
ted to canal
board.

§ 6. Before any line for the enlargement of the Erie canal, the construction or the improvement of any lateral canal or any sections thereof, not already under contract, shall be finally located, the state engineer and surveyor, shall cause such surveys, maps, plans, specifications and estimates of the expense of constructing the prism and banks of the canal, and of the mechanical structures required to be built thereon; or shall in his discretion revise such maps, specifications and estimates of surveys previously made, as will render it practicable readily to determine the line of canal, and the plan of constructing the same, and the kind and plan of the mechanical structures that should be adopted, and shall communicate the same to the canal board, with his opinion in relation thereto, in writing, together with his opinion as to the time when the public interest requires that the construction of such line or portion of the canal should be commenced, and the time when the same should be completed.

Duties of
division
engineer.

§ 7. It shall be the duty of each division engineer frequently to pass over and carefully inspect all of the canals embraced in the division under his charge, and to examine and if necessary review all surveys, maps, profiles, admeasurements, plans, specifications and estimates made in reference thereto by any engineer employed on said division, and

to see that the engineers and overseers of work employed thereon faithfully perform their duties. The division engineers shall make to the state engineer and surveyor and to the canal commissioner in special charge of the division, and to the superintendents of repairs, such suggestions in relation to repairs and the plan of making the same as will, in their opinion, most tend to a safe and economical maintenance of the navigation of the canals.

§ 8. The division engineers shall, under the direction of the state engineer and surveyor, make or cause to be made all surveys, maps, plans, specifications and estimates that may be necessary or required by the canal board or canal commissioners to determine the proper location of the line of the canal, or any portion thereof, on their respective divisions, or that may be necessary preparatory to placing any work under contract for construction, and shall transmit a copy thereof to the state engineer and surveyor, who shall upon a due inspection and revision submit the same to the canal board with his approval endorsed thereon, and on obtaining thereon their certificate of adoption, he shall file the same in his office.

Division engineers to make surveys, maps, &c. of all work contemplated.

§ 9. Before any work shall be contracted for on any of the canals of this state, the division engineers shall ascertain or cause to be ascertained with all practicable accuracy the quantity of embankment, excavation, masonry and the quantity and quality of all materials to be used, and all other items of work to be placed under contract, a statement of which, together with maps, plans and specifications corresponding with those adopted by the canal board and on file in the office of the state engineer and surveyor, shall be publicly exhibited to persons proposing for the work to be let. The quantities so exhibited shall be used in determining the value of the propositions received, and after the contracts shall have been awarded, said statement of quantities, together with the maps, plans and specifications and all other papers relating to the work advertised, and which were exhibited as aforesaid, and are necessary to identify the plan and extent of the work so awarded, shall be filed in the office of the state engineer and surveyor, accompanied with the certificate of the division or resident engineer, stating the time and place they were so exhibited. No alteration shall be made in any map, plan or specification adopted by the canal board, and so exhibited, or the plan of any work under contract during its progress, except by the consent and approval of the commissioner and the division engineer, nor unless the description of such alteration and the approval thereof be reduced to writing and be signed by the parties making the same, and a copy thereof shall have been filed in the office of the state engineer and surveyor. Nothing in this section contained shall be construed to authorize any change of plan that shall increase the expense of the work,

Letting and construction of work.

PART I.

Duties of
resident
engineers.

or create any claims against the state for damages arising therefrom unless a written statement setting forth the objects to be attained by such change and the expense thereof shall have been submitted to the canal board, and their assent at a meeting in which the state engineer and surveyor were present shall have been obtained.

§ 10. It shall be the duty of the resident engineers under the immediate direction of the division engineers, respectively, to survey, lay out, measure and compute the quantities of all work ordered by the canal board or the canal commissioners to be surveyed for location, construction, or other purposes, to assist the division engineer so far as may be necessary in making maps, plans, specifications and estimates, to see that the work done on the several subdivisions is well and faithfully performed by the contractors, and in all respects strictly according to the terms of the contracts, and on the completion of the same they shall accurately ascertain the quantity of the several items of work done and the amount at the contract prices, and shall present to the canal commissioner or the division engineer a final statement thereof in such form duly verified as shall be prescribed by the auditor of the canal department; each resident engineer shall enter or cause to be entered in a book which shall be furnished for that purpose by the state engineer and surveyor, all of the field notes and computations of the items of work done on the subdivision under his charge, with such recapitulations, diagrams and other illustrations as may be necessary to render the same intelligible, together with a statement of the total quantity of each item of work done and the amount thereof at the contract price, and the aggregate amount at contract prices of the work done by each contractor, which entry shall be made in due form and properly certified by the several engineers who may have made it within three months from the time the final statement mentioned in this section shall have been prepared, and the book or books containing such entries shall within one hundred days after the completion of the work on each subdivision, be properly indexed and filed in the office of the state engineer and surveyor. The resident engineers shall severally perform such other services in the line of their duties as shall from time to time be required by the state engineer and surveyor, or the division engineer in charge of the subdivisions on which they may be located, and in case of the absence or inability of the division engineers to act, the resident engineer shall discharge the duties of such division engineer so far as relates to the subdivision assigned to said resident engineer.

Duties of
assistant
engineers.

§ 11. It shall be the duty of the first assistant engineer, when directed by the resident or division engineer, to lay out and accurately measure and compute the quantities of the several items of work done or to be done, in constructing the public work within the limits severally assigned to them,

to see that the work is, on the part of the contractors and others connected therewith, faithfully performed, and in all other respects to aid and assist the resident engineer in the discharge of his duties as prescribed in the preceding section of this act, and to perform such other service in the line of his duties as the resident or division engineer may from time to time require.

§ 12. Whenever any resident or first assistant engineer shall, by the canal commissioner in special charge of the division upon which they may be located, be required to perform any service in the line of their duty other than is in this act contained, they shall severally perform the same under the supervision of the division engineer, and shall, under the sanction of the commissioner requiring the same, and of the division engineer, be authorized to employ such additional assistants and laborers as may be necessary to enable them to perform such service.

Services other than mentioned in this act how performed by resident and first assistant engineers.

§ 13. The canal commissioner in special charge of a division shall have power, with the concurrence of the state engineer and surveyor, to remove for cause any engineer employed on such division.

Removal of engineers.

§ 14. The canal commissioner in special charge of a division shall have power, with the concurrence of the state engineer and surveyor, to suspend any engineer on such division for misconduct or neglect of duty, and to appoint another to discharge the duties during such suspension. The state engineer and surveyor or commissioner who with the concurrence aforesaid shall suspend any engineer, as aforesaid, shall forthwith report the same to the canal board, with his reasons therefor, and serve a copy of such report on the engineer so suspended. The canal board shall hear the proofs and allegations of the parties, and discharge or retain such engineer, as they may deem right.

Suspension of engineers.

§ 15. The state engineer and surveyor shall annually report to the legislature within twenty days after the commencement of its session, the number and compensation of the engineers employed, and that may have been employed during the preceding year, on the public works of this state, designating the number employed on each resident's subdivision, and the length and estimated cost of the work under contract, the amount done and remaining to be done at the contract prices, on said subdivisions respectively. Said report shall also contain such other information in relation to his proceedings under this act, and such suggestions in the line of his duty in relation thereto as he may deem the public interest to require.

Annual report of state engineer.

§ 16. So much of all laws and parts of laws as conflict with the provisions of this act, or authorize the appointment or employment of any of the officers or persons whose appointment is herein before provided for, in any other manner than according to the provisions of this act, are hereby repealed.

Repeal.

CHAP. 57.

AN ACT in relation to the powers and duties of the Canal Commissioners and Superintendents.

PASSED March 21, 1851; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Duty.

§ 1. Superintendents appointed by the canal board on the several canals of this state, shall give their personal and constant attention to the duties of their office.

Receipts for money.

§ 2. No superintendent, appointed as aforesaid, shall under any pretence whatever take a receipt for labor done, services performed or materials furnished for the canals, when the money shall not be actually paid.

Powers of appointment.

§ 3. Each superintendent, so appointed, shall have power to appoint his own foreman, lock-tenders and other subordinate persons necessary to enable him to discharge his official duties, and the compensation to each shall not exceed the rate of compensation established by the board of canal commissioners. But the canal commissioner in charge of any section of the canal in which any foreman, lock-tender, or other subordinate person may be employed, or the board of canal commissioners shall have absolute power to remove any foreman, lock-tender or other subordinate for misconduct, incompetency or neglect of duty provided such canal commissioner or the board of canal commissioners making such removal shall specify the cause of such removal in writing and file the same in the office of the auditor of the canal department within ten days from the date of such removal. In case of the removal of any such foreman, lock-tender or other subordinate, it shall be the duty of the commissioner or the board of canal commissioners making such removal immediately to notify the superintendent in charge of the section of the canal, where such removal shall be made, of the fact of such removal; and in case the superintendent shall neglect or refuse for three days to fill the vacancy thus created, and to notify the commissioner or board of canal commissioners thereof, it shall be the duty of the canal commissioner or the board of canal commissioners making such removal to fill such vacancy.

Canal commissioners may remove for cause.

Notice how given and filed.

Vacancy how filled.

CHAP. 246.

AN ACT to provide for the protection of the navigable waters of Cayuga inlet.

PASSED April 13, 1852; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The canal commissioners are hereby authorized and required to take charge of so much of the navigable waters of the Cayuga inlet, as are now subject to canal tolls, and to exercise the same power and supervision over them as they are by law authorized and required to exercise over other canals of this state; and shall cause to be removed such obstructions therefrom, and make such improvements therein, as may from time to time be necessary to preserve and keep the channel of said inlet of sufficient depth and capacity to admit the passage of any boats or water craft which may navigate the Erie canal.

Canal commissioners to take charge of.

§ 2. The treasurer is hereby authorized and required to pay on the warrant of the comptroller such sum or sums as may from time to time be required to effect the purposes of this act, from any moneys in the treasury not otherwise appropriated; but such sum shall not at any time exceed the aggregate of tolls heretofore collected together with the amount which may be hereafter collected from boats or property passing through said said channel.

Treasurer to pay money from time to time.

CHAP. 52.

AN ACT requiring canal superintendents to publish monthly abstracts of their official disbursements.

PASSED March 25, 1853.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be the duty of each canal superintendent of this state, on or before the fifteenth day of each month, to publish in some newspaper, printed in any county through which any part of his section of the canal shall pass, an abstract of his official disbursements during the preceding month, stating therein the name and residence of the person to whom he has paid money and the amount paid to each; if for labor, the number of days and the amount per day; if for materials, the kind, quantity and price; which abstract shall be published in the entire edition of such newspaper, and shall be verified by the oath of such superintendent. The

Publication of abstract of expenditures.

PART I.
Expense of publishing.

expense of such publication shall not exceed the sum of fifteen dollars, to be regulated and fixed by the auditor of the canal department; may be paid by such superintendent out of public moneys in his hands, the expense thereof to be included in and published in his next abstract of official disbursements.

To file abstract in clerk's office in certain cases.

§ 2. Should the canal superintendent be unable to procure the publication as aforesaid for the sum mentioned, then it shall be his duty to make and file such abstract in the county clerk's office in the county in which he shall reside, or in the town clerk's office in the town through which his section of the canal shall pass, as the said auditor shall direct.

Form of abstract and blanks.

§ 3. The auditor of the canal department shall prescribe the form of such abstract, and cause the necessary blanks to be printed and sent to the superintendent, together with such instructions for publication or filing as will be necessary to insure uniformity in the same.

Certificate of filing to be sent to auditor.

§ 4. Immediately after the publication or filing such abstract in the county or town clerk's office, he shall transmit to said auditor a certificate to the effect that the same has been filed or published according to law, in which he shall state the aggregate amount of such abstract, the form of which certificate shall also be prescribed by said auditor.

Subject to inspection.

§ 5. Said abstract so filed shall be subject to the inspection of the public at all reasonable office hours.

CHAP. 641.

AN ACT regulating the hours of labor on public works.

PASSED July 21, 1853.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Ten hours shall be deemed a day's work, in the absence of any agreement, for mechanics and laborers on all public works in this state.

CHAP. 329.

AN ACT to provide for the enlargement of the Erie, the Oswego, and the Cayuga and Seneca canals, and for the completion of the Black River and Genesee Valley canals, and to provide for the payment of certain canal revenue certificates, and for other purposes.

PASSED April 15, 1854; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Money to be borrowed.

§ 1. The commissioners of the canal fund shall borrow, on the credit of this state, in such amounts, from time to time,

as shall be required to pay the expenses that may be incurred under the provisions of this act, a sum not exceeding in the whole two millions two hundred and fifty thousand dollars, payable at such time or times as they may prescribe, within eighteen years from the time of such loan, at a rate of interest not exceeding six per cent per annum, payable quarterly on such days and at such places as the said commissioners shall direct. All the existing provisions of law in relation to loans of money for this state by the commissioners of the canal fund, and in relation to certificates of stock issued under the direction of the said commissioners, shall apply to the loan hereby authorized and to the certificates therefor issued by the said commissioners.

§ 2. The sum of two millions two hundred and fifty thousand dollars is hereby appropriated, payable out of the remainder of the surplus revenues of the canals, if there be any that shall accrue during the present fiscal year after paying the expenses of collection, superintendence and repairs of canals, and the sums directed to be appropriated by the first and second sections of the seventh article of the constitution, and the sums hereinafter appropriated to pay the interest, and to constitute a sinking fund to extinguish the principal of the loans made under this act, and the sum of two hundred thousand dollars to defray the necessary expenses of government, and out of the moneys to be borrowed pursuant to the first section of this act, to be applied to the enlargement of the Erie, the Oswego and the Cayuga and Seneca canals, and in the completion (upon the dimensions heretofore adopted) of the Genesee Valley and Black River canals, and for the enlargement of such of the locks of the Champlain canal, to the size of the present locks of the enlarged Erie canal, as the canal board shall determine to be so dilapidated or decayed as to render it necessary to rebuild them during the current year. Such appropriation shall be as follows: One million eight hundred and fifty-one thousand dollars thereof to the Erie enlargement and such works connected therewith as shall be directed by the canal board; one hundred and sixty-nine thousand dollars thereof for the enlargement of the Oswego canal; one hundred and one thousand dollars thereof for the enlargement of the Cayuga and Seneca canal; forty-nine thousand dollars thereof for the completion of the Black River canal; sixty-five thousand dollars thereof for the completion of the Genesee Valley canal, and twenty-five thousand dollars thereof for the expense of enlarging the locks of the Champlain canal, hereinbefore mentioned, beyond the cost of reconstructing them of their present dimensions. The Erie, the Oswego, and the Cayuga and Seneca canals shall be enlarged to the general dimensions of seventy feet in width upon the surface, by seven feet in depth, except where, in the opinion of the canal board, greater dimensions may be necessary to supply a suffi-

\$2,250,000
appropriated.

Erie canal.

Oswego canal.

Cayuga and Seneca.

Black river.
Genesee Valley.

Width and depth of enlargement.

PART I.

cient quantity of water for the purpose of navigation and for the construction and completion of such basins as may be deemed necessary, by the canal board, and also, except in localities where a due regard to economy and the interests of the state require that such specified width should, in the opinion of the canal board, be varied.

\$1,500,000
to be bor-
rowed.

§ 3. The said commissioners of the canal fund shall also borrow, on the credit of this state, the sum of one million and five hundred thousand dollars, payable at any time they may prescribe within eighteen years from the time of such loan, at a rate of interest not exceeding six per cent per annum, payable quarterly on such days and at such places as the said commissioners shall direct. All the existing provisions of law in relation to loans of money for the state by the commissioners of the canal fund, and in relation to certificates of stock issued under the direction of the said commissioners, shall apply to the loan hereby authorized and to the certificates therefor issued by the said commissioners.

To buy
canal cer-
tificates.

§ 4. The money borrowed under the last preceding section of this act is hereby appropriated to refund to the holders of the canal revenue certificates, issued under the provisions of chapter four hundred and eighty-five of the Laws of the year eighteen hundred and fifty-one, the amount received into the treasury thereon; but no interest, to accrue after the first day of July, eighteen hundred and fifty-five, shall be paid on such certificates.

Sinking
fund.

§ 5. After paying the expenses of collection, superintendence and repairs of the canals, and the sums directed to be appropriated by the first and second sections of article seventh of the constitution, there is hereby appropriated, to be paid out of the surplus revenues of the canals which shall accrue during the present fiscal year, the sum of one hundred and twelve thousand five hundred dollars, or so much thereof as shall be necessary to pay the interest for the current year on the debt that shall be contracted pursuant to the provisions of this act, and the sum of one hundred and fifty-five thousand eight hundred and twenty dollars and thirty-seven cents, to constitute a sinking fund to extinguish the principal of the said debt, which last mentioned sum, and the interest thereon as received, shall be invested by the commissioners of the canal fund in the manner provided by law in respect to the investment of the surplus revenues of the canal fund.

Premiums,
how invest-
ed.

§ 6. The premium received on any loans made by the commissioners of the canal fund for the completion of the canals, pursuant to the recent amendment of the constitution provided therefor, shall be invested and the interest on such investments shall also be invested, by the commissioners of the canal fund, in the same manner now provided by law in respect to the surplus revenue of the canal fund, and shall be applied at the expiration of four years from the passage of this act to the completion of the canals of this state, in case

the appropriations authorized by the said amendment should be insufficient for that purpose.

§ 7. As soon as practicable after the passage of this act, and before any contracts for the enlargement and completion of the said canals shall be made, the state engineer and surveyor shall perform and execute the duties prescribed by the sixth section of chapter three hundred and seventy-seven of the Laws of eighteen hundred and fifty. The canal board shall examine the maps, plans, specifications and estimates furnished by the state engineer and surveyor, and shall have power to alter or modify the same, and finally decide upon the maps, plans, locations and specifications of the work to be let; which said work for the enlargement of the Erie, the Oswego, the Cayuga and Seneca canals, and the completion of the Black River and Genesee Valley canals shall be put under contract and progress to completion, so as to bring the said several improvements into use at the same time as nearly as may be. But nothing in this section shall authorize the said board to abandon the present canal through cities or incorporated villages, where an independent canal may be deemed advisable.

Maps and plans of enlargement.

§ 8. The work to be done, and the materials to be furnished according to the plans, maps, specifications and locations so approved by the canal board, shall be contracted for in behalf of the state by a board consisting of the canal commissioners, the comptroller, and the state engineer and surveyor, at meetings to be held as follows: For work on and materials for the eastern division of the Erie canal, at Utica; for work on and materials for the middle division of the said canal, at Syracuse; for work on and materials for the western division of the said canal, in such parts as the letting board shall determine, at Albion, Rochester and Buffalo; for work on and materials for the Oswego canal, at Fulton, Oswego county; for work on and materials for the Genesee Valley canal, at Cuba; for work on and materials for the Black River canal, at Lyons Falls, Lewis county; and for work on and materials for the Cayuga and Seneca canal, at Seneca Falls; and for work on and materials for the Champlain canal, at Albany. Public notice of the times of meeting at the said places respectively, for the reception of sealed proposals for entering into contracts for any of the said work, shall be published for three weeks successively in the state paper, and in such newspapers published in the vicinity of the work to be done as the contracting board shall direct; and such contracting board, for the purposes of this act, shall have the same powers, and perform the same duties, and be subject to all the conditions and restrictions provided by law previous to July 10, 1851, in respect to contracts by the canal commissioners for work or materials upon the canals of this state, unless otherwise provided by this act.

Contracting board and places of meeting.

PART I.
LAWS OF
1880, appli-
cable to
contracts.

§ 9. Before any work shall be contracted for, the matters specified in the ninth section of chapter three hundred and seventy-seven of the Laws of the year one thousand eight hundred and fifty shall be ascertained, under the direction of the state engineer and surveyor, and the said section shall be in all respects applicable to the proposals, contracts and proceedings for making the contracts authorized by this act.

Conditions
and restric-
tion of
contracts.

§ 10. In addition to the provisions of law existing previous to the tenth day of July, one thousand eight hundred and fifty-one, and for the purpose of rendering them more effectual, all proposals and contracts for work to be done and materials to be furnished, herein authorized, shall be subject to the following conditions and restrictions:

1. All such proposals shall be for a sum certain as to the price to be paid for each and every kind of work that can in its nature be specified, and for the quality and quantity of every material to be furnished.

2. Every proposal shall be accompanied by an affidavit, endorsed thereon, of each person uniting in such proposal, that he is not directly or indirectly interested in any other proposal for the same work or materials, or any part of the same; that he has no agreement or understanding with any other person to become interested in any other proposal or contract for the same work or materials, or any part thereof; and that no other person than such as shall be named in the proposal is interested in the same, or has any agreement or understanding to become interested in any contract that may be made in pursuance of such proposal.

3. Every proposal for work or material authorized by this act shall be accompanied with a bond to the people of this state in such penalty as shall be required by the contracting board, not less than twenty nor more than fifty per cent of the engineer's estimate of the cost of the work and materials embraced in the contract which shall be awarded upon such proposal, the amount of which penalty shall be stated in the advertisement for such work and material, and which bond shall be signed by the party making such proposal and two or more responsible sureties, with such evidence of their responsibility as the contracting board shall require, and which sureties shall justify sums equal in the aggregate to twice the amount of such penalty; and which bond shall be conditioned that if the contract shall be awarded to the party making such proposal, that he or they will within ten days, if living, after such award enter into contract for the performance of the work and furnishing of the material referred to in such proposal, upon the terms prescribed by the contracting board; and also, the further condition that the contractor or contractors, after making such contract as aforesaid, shall and will without delay enter upon the execution thereof and fully and faithfully perform the same, according to the stipulations contained therein, and upon his or their

failure to enter into such contract, or to fully and faithfully execute and perform the same, that the obligors in the said bond will forfeit and pay into the treasury of this state a sum equal to ten per cent upon the estimate of the engineer of the cost of the work and materials embraced in said contract, at the price named in the proposition as liquidated damages; and if any breach shall occur in the condition of such bond, the same shall be handed over immediately to the attorney-general, who is hereby authorized and required forthwith to prosecute the same, and without unnecessary delay to recover and collect the liquidated damages specified in the condition thereof, and all damages sustained by the state by the non-performance of the said contract or any part thereof; and the same shall not be compromised, nor shall the prosecution or collection of the same be delayed or suspended by any board or officer. But nothing herein contained shall be construed to prevent or prohibit the sureties of any contractor or contractors, in case of his or their neglect, refusal or inability to enter into or complete such contracts, from accepting and completing the same upon their own account, upon giving the like satisfactory security therefor as is already provided for in this act; or the letting board may, in their discretion, at the request of such sureties to them signified in writing, award such contract to any other person who will accept the same for the prices named in the proposition of such defaulting contractor or contractors. But upon the ultimate failure or refusal of the person or persons to whom a contract may be awarded to enter into the same, it shall be the duty of the contracting board to proceed forthwith to relet the same in the manner required by law, or they may in their discretion award such contract to the next lowest bidder at the same letting, and in case he will not enter into contract for the same on the terms required by this act, the same shall be advertised anew and be let according to law.

4. No acceptance of a proposal or award of a contract by the said contracting board, and no contract made by the said board, or any interest in the same, shall be assignable to any person or persons, without the written consent of the canal commissioners.

5. In every contract there shall be a provision that fifteen per cent of the amount of any work done or materials furnished, at the contract price thereof, shall be reserved by the canal commissioner until the whole work, which is the subject of the contract, shall be fully and entirely completed. Every engineer certifying the amount of any work done or materials furnished, pursuant to any contract made under this act, shall in his certificate set forth the whole amount done or materials furnished, and the aforesaid deduction of fifteen per cent from such amount, and the net amount to be paid for the same; and no other or greater sum than the said net amount shall

PART I.

be paid under any circumstances, until the whole contract shall have been fully and entirely performed.

6. Any provision that may be directed by the canal board, not inconsistent with the provisions of law calculated to insure the faithful execution of any contract, shall be inserted therein.

7. All contracts for work or materials shall be made with the person or persons who shall offer to do or provide the same at the lowest price, with adequate security for their performance.

8. All proposals for work or materials shall be publicly opened and read by the contracting board, and shall be marked by one of them as having been received and so read, specifying the time, and shall be copied at large in a book to be provided for that purpose, and the original shall within thirty days be filed in the canal department.

9. In case the contracting board shall be of opinion that the proposals made at any meeting thereof, pursuant to any advertisement, are, in consequence of any combination or otherwise, excessive and disadvantageous to the state, they may decline all the said proposals, and advertise anew for the work and materials embraced therein. 46 B., 256.

10. The abstracts of all the proposals received at any meeting of the contracting board, containing specifications of each kind of work, the price bid in each proposal, and the total cost of each kind of work at such price, upon which any decisions by the said board may be founded, shall be certified by the engineers making the same, and shall be filed in the canal department, and be open to public inspection after the contracts are awarded.

Certain officers not to be interested in contracts.

§ 11. No member of the Legislature, no member of the canal board, no state officer, and no person employed by the state on the state canals, shall, during the time for which he shall have been appointed or elected, be interested directly or indirectly in any contract or job to be performed on the enlargement or completion of the canals specified in the second section of this act; and every such contract, in which any such person may be or become thus interested, except by the operation of law, shall be void and declared forfeited by the canal board on discovery of the fact.

Penalty for making false estimates.

§ 12. Any engineer or other officer or person in the employ of the state, who shall knowingly make any false representation or estimate of the nature, quality, quantity or cost of any work proposed by the state or any individual to be done, or of any materials so proposed to be furnished for any canal or its appurtenances, or any false representation or estimate in any statement of work or materials so proposed, which may be required by the canal board, any canal commissioner or any other board or officer, or who shall knowingly report or certify to any false statement of the amount of any work done, or purporting to have been done for the state, or of the quality or

nature of such work, or of the quality or quantity of any materials furnished or purporting to have been furnished to the state, by which any person may be enabled to claim or receive a greater allowance than is justly due, shall be deemed guilty of a misdemeanor, and on conviction shall be imprisoned in the state prison for not more than five years or in a county jail or penitentiary not more than two years, and shall be fined not exceeding one thousand dollars.

§ 13. Any moneyed corporation, and any association formed under the "Act to authorize the business of banking," and any individual banker, may loan to the state any of the moneys herein authorized to be borrowed, and may purchase, hold and dispose of any certificates of the stock issued by the commissioners of the canal fund for any part of such loan; and the sums so loaned, and the stocks so purchased, shall not, in respect to any limitation imposed by law, be deemed a violation thereof.

Banks may
loan money.

CHAP. 332.

AN ACT prescribing regulations in regard to the management of the canals, and for other purposes.

PASSED April 15, 1854; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The assent of five members of the canal board shall be requisite to the adoption of all questions or resolutions involving the expenditure or appropriations of the public moneys, and all such questions or resolutions shall be taken by ayes and noes, and entered upon the minutes.

Assent of
five mem-
bers, when
necessary.

§ 2. It shall be the duty of the secretary of the canal board to cause to be published, in the state daily paper at Albany, the minutes of said board as soon as may be after each session.

Minutes to
be pub-
lished.

§ 3. The canal commissioners hereafter to be elected shall be entitled to compensation for their services at the rate of two thousand dollars a year, payable quarterly, instead of all compensations now allowed by law; and there shall also be allowed to canal commissioners all reasonable and necessary traveling expenses by them actually incurred and paid in the discharge of their duties, not exceeding four hundred dollars in any year, of which they shall keep an accurate account by items, and verify the same by their oaths, to be filed with the auditor; all laws allowing traveling fees and expenses to canal commissioners, heretofore existing, are hereby repealed.

Compensa-
tion of
canal com-
missioners.

§ 4. No superintendent of canal repairs shall be removed by any canal commissioner during the session of the canal board; but either of the canal commissioners, when a recess or adjournment of the canal board shall have been ordered, or shall exist for more than five days, may, during such recess

Superin-
tendents,
how re-
moved.

PART I.

or adjournment, remove any of the superintendents on the division of the canals of which he has charge, and fill the vacancy occasioned by such removal, to continue until the order of the canal board in the matter. And the commissioners making such removal shall, without delay, report the name of the person removed, and the name of the person appointed, to the canal department, with the reasons for making such removal. On receiving such report, the auditor shall immediately give notice to the members of the canal board of a meeting of such board to consider such report. And if the canal board shall re-appoint the superintendent so removed, he shall not be again removed by a canal commissioner.

Certificate
of title
before pay-
ment of
damages.

§ 5. Before the auditor shall be required to pay any damages that may be awarded, or the amount of any commutation agreed on for the appropriation of land or water, or for the want of a farm bridge, he shall be furnished with a satisfactory abstract of title, and certificate of search as to incumbrances, showing the person demanding such damages or commutation to be legally entitled thereto, which abstract and search shall be retained and filed in his office.

Farm
bridges.

§ 6. No person shall be entitled to demand a farm bridge across any of the state canals or their feeders, in any case when the necessity or convenience of such bridge shall have arisen from the division or acquisition of any property subsequent to the location of such canal or feeder.

Bridges.

§ 7. Chapter two hundred and seven of the Laws of eighteen hundred and thirty-nine, and all other existing laws in relation to bridges over the enlarged Erie canal, shall be applicable to bridges over the enlarged Oswego and the enlarged Cayuga and Seneca canals, and the Cayuga inlet.

Perjury.

§ 8. Any person guilty of false swearing to any oath or affidavit which may be lawfully required by any rules and regulations of the canal board, canal commissioners or auditor, shall be deemed guilty of perjury, and on conviction be punished the same as in other cases of perjury.

Street and
road
bridges.

§ 9. Hereafter no street or road bridges shall be constructed by the canal commissioners over any canal of this, except upon such streets or roads as were laid out, worked and used previous to the construction of the canals by which such streets or roads were obstructed.

§ 10. All laws in force in this state, inconsistent with the provisions of this act, are hereby repealed.

CHAP. 534.

AN ACT for the prevention of frauds upon the Canal Revenues.

PASSED April 14, 1855; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any articles shall be transported upon any of the canals of this state, and shall, with knowledge on the part of the captain or owner of the boat, be cleared as articles paying a lower rate of toll, or be partially or altogether omitted from the clearance, the boat upon which such articles shall be transported shall be forfeited to the people of this state, and shall be seized and taken possession of by any collector of canal tolls, or officer acting under his direction, in behalf of and as the property of the people of this state. False clearances.

§ 2. Whenever any goods, articles, or other property shall be transported upon any of the canals of this state, packed up, or enclosed in boxes, casks, kegs, barrels or bags, which are falsely marked as containing articles of a different description, and of a character chargeable with a less rate of toll, and shall be thus cleared, such articles shall be forfeited to the people of this state, and be seized and taken possession of by any collector of canal tolls, or officer acting under his direction, in behalf of and as the property of the people of this state; but no such confiscation shall be made unless it is proved that the owner of said property knew of the fraud. Id.

§ 3. The property thus forfeited and seized shall, as soon as may be after such seizure, be advertised for sale by the collector, and sold at public auction to the highest bidder, and the proceeds thereof, accounted for and paid into the treasury. And it shall be the duty of the auditor in case of seizures legally made under the provisions of this act, to pay one-third of the net proceeds of such sale, after deducting expenses, to the person discovering or giving information of such fraud, and another third part thereof to the collector or other officer making the seizure and imposing the penalty. Sale of articles forfeited.

§ 4. Any officer or employee of the state, upon or connected with any of the canals of this state who shall be cognizant or have information of the commission of, or attempt to commit by any person, any fraud upon the revenues of the canals, and shall not discover the same and enforce the penalties if within his power, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment or both. The fine in cases of the concealment of frauds of the character specified in the first section of this act, not to exceed three times the value of the property fraudulently cleared or omitted from the clearance, and the imprisonment not to exceed two years. Duty of officers to disclose frauds.

PART I.
Remission
of penalties.

§ 5. The canal board or the commissioners of the canal fund shall not have power to remit penalties imposed for any commission or attempt to commit a fraud upon the revenues, unless they are satisfied that such penalty was illegally imposed, and such remission be applied for in writing and under oath, within sixty days after the imposition of such penalty.

CHAP. 554.

AN ACT to extend the provisions of an act entitled "An act to provide for the letting of certain canal repairs by contract," passed April 15, 1854.

PASSED April 19, 1855; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The canal commissioners, or either of them, are hereby authorised to let by contract, under the provisions of the act entitled "An act to provide for the letting of certain repairs by contract," passed April fifteenth one thousand eight hundred and fifty-four, any completed superintendent's section of the canals under their or his charge, under the approval and direction of the canal board. Ante, p. 187.

CHAP. 105.

AN ACT to enlarge the powers and define the duties of the Contracting board.

PASSED March 14, 1857; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The contracting board, consisting of the canal commissioners, the comptroller, and the state engineer and surveyor, in addition to the duties required of them by chapter three hundred and twenty-nine of laws of eighteen hundred and fifty-four, shall have power, and it shall be their duty, to let by contract, under such regulations as said board shall prescribe, to the lowest bidder or bidders, who will give adequate security for the performance of the contract, all such completed superintendents' sections of the canals of this state, (including the Cayuga inlet, the Oneida river improvement and the Seneca river towing path,) and all feeders and reservoirs connected therewith, as may not now be under contract for repairs; and the said board is also authorised to let under the same regulations, all or any uncompleted portions of the said canals and other improvements upon which in the opinion of said board, the repairs may be made by contract more

May let,
completed
sections by
contract.

To let un-
completed
portions.

thoroughly and economically for the state than they now are or may hereafter be made by the superintendents of repairs. Public notice of at least thirty days shall be given in the state paper, and in one daily paper in the cities of New-York, Albany, Troy, Utica, Syracuse, Oswego, Rochester and Buffalo, and one paper in the villages of Binghamton, Elmira and Whitehall, of the time and place of holding said lettings, the extent of canal to be embraced in each contract, and the amount and character of the security that will be required for the performance of each respective contract. Each contract so made shall extend over a period of not less than three, nor more than five years, and shall specify that the repairs therein provided for shall be made under the immediate direction of the commissioner in charge of the division of the canals upon which said repairs may be located.

34 N. Y., 400; 27 N. Y., 380; 46 B., 256.

§ 2. All inventory shall be made by the commissioner in charge, of all boats, tools, and other implements owned by the state and belonging to each portion of the canal so let, with their appraised value; which inventory shall be published with the notice of letting said sections, and the person or persons taking such contract will be required to take the boats, tools and other implements at their appraised value, as part payment on their said contracts.

§ 3. One copy of each of the contracts so made shall be filed in the office of the contracting board, and another in the office of the auditor of the canal department; and the canal commissioner in charge is hereby authorised to make monthly payments on said contracts, by drafts on the auditor of the canal department, reserving on each payment fifteen per cent to the end of each year as a security to the state for the faithful performance of said contract, which fifteen per cent for the previous year shall be paid to him or them at the expiration of the third month of each succeeding year thereafter, in case the provisions of such contract have been fully complied with. Unless the state, division or resident engineer shall certify to the said canal commissioner, or to the contracting board, that the repairs upon said portion of the canals are not promptly and properly made, or that unsuitable materials are used, or that the locks are not well and properly attended, or the navigation is not kept free from jams from boats, timber or other obstructions, or the feeders to said canal are neglected, so that there is not sufficient water for navigation; for all or either of the above causes of neglect by said contractor, the canal commissioners may withhold said monthly drafts from the contractors, and the contracting board may declare the said contract abandoned, and thereupon the canal commissioner shall take charge of the said section and make the repairs necessary to maintain navigation, in the manner provided for by this act in cases where said repairs are not performed by contract, until the contracting board shall relet said repairs.

Public notices.

Period of contracts.

Inventory.

Contracts to be filed.

Monthly payments.

Drafts may be withheld.

Contract abandoned.

PART I.**Exceptions
from con-
tracts.**

§ 4. The contracting board may, if they shall deem it for the interest of the state, except from such contract the materials for and the construction of any bridge or other specified structure which may fail or require reconstruction within the period of such contract.

Trespasses.

§ 5. The person or persons so contracting for repairs are hereby empowered to sue and recover for all trespasses upon the canal or other works included in said contract, or upon any structures connected therewith, and recover the same

Penalties.

penalties imposed by law or any existing resolution of the canal board, as may be recovered for like offences when prosecuted by a canal superintendent; and the amount of such penalties recovered shall be accounted for to the state by deduction from monthly payments to said contractors, but the contractor may also sue in his own name and recover to his own use the actual damages he may have sustained in consequence of such trespass.

**Contractors
may sue.**

Sections 6, 7, 8, 9, 10, 11, 12 repealed by Laws of 1860, ch. 86. Post, 34 N. Y., 400.

**Final
accounts.**

§ 13. The final accounts for all work done or hereafter to be done, under contracts, for the construction or the enlargement of the works, authorized by the amendment to the constitution adopted February fourteenth, eighteen hundred and fifty-four, shall be examined and approved by the state engineer and surveyor before being paid by the commissioners.

**Contracts
may be
made.**

§ 14. The work remaining to be done and materials to be furnished upon the canals and other improvements of this state, not now under contract, may be contracted for in behalf of the state by said contracting board, at meetings to be held at any place that may be designated by said board, upon the division of said canals upon which said work or materials may be located.

Section 15 repealed by Laws of 1860, ch. 86.

Clerk.

§ 16. Said contracting board may appoint a competent clerk, at a salary not exceeding fifteen hundred dollars per annum.

**Superin-
tendents,
&c., not to
be inter-
ested in
contracts.**

§ 17. No person employed by the canal department, either as superintendent or engineer, and no person holding any appointment under the contracting board, nor any officer or officers connected with the canals, shall be interested, directly or indirectly, in any contract connected with the canals, under the provisions of this act.

**Boat
inspector.**

§ 18. The office of canal boat inspector is hereby abolished, and the duties pertaining to that office shall hereafter be performed by the collectors of tolls.

**Conflicting
acts
repealed.**

§ 19. So much of all laws or parts of laws as conflict with the provisions of this act, or authorise the appointment or employment of any of the officers or persons whose appointment is herein provided for, in any other manner than according to the provisions of this act, are hereby repealed.

See Laws of 1864, ch. 252. Post, vol. 6, p. 244; post, p. 198.

CHAP. 267.

AN ACT in relation to abandoned canals.

PASSED April 6, 1857, by a two-thirds vote.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever the canal board shall by resolution determine that any lands taken for the purposes of the canals of this state have been abandoned, and that the title of the state to said lands was acquired by purchase from the owner or owners, it shall and may be lawful for the commissioners of the land office to sell, grant and convey the right, title and interest of the state in such lands, and credit the proceeds of such sale to the fund appropriated for the construction of the canal enlargement, improvement and repairs of the same; and in case it shall appear that the title of the state to said lands was acquired by grant or otherwise from the owner or owners, and without the payment of any sum or sums whatever by the state for such lands, it shall and may be lawful for the commissioners of the land office to release all the right, title and interest of the state in and to such lands to the persons so granting the said lands to the state, or from whom the title was acquired by the state, to his or their heirs, grantees or assigns, upon and subject to such rules, regulations and requirements as may be deemed for the interest of the state; provided that where any of such lands shall, at the time of such abandonment, be used as or for a hydraulic canal, the conveyance shall not in any respect prevent the future use of the land for the same purpose, but shall expressly reserve the right to continue such hydraulic canal.

Sale of
right and
title.

Rules and
regulations.

§ 2. The original owner or owners of said abandoned canals, their heirs or assigns, who may be the owners of the lands adjoining thereto, shall have the preference for one year subsequent to the passage of said resolution by the canal board, to purchase the same by payment to the commissioners of the land office of the amount originally paid by the state for said lands.

Original
owners to
have preference.

CHAP. 385.

AN ACT to fix the term of office and the salary of the Canal Appraisers.

PASSED April 15, 1857; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The three canal appraisers to be appointed next after the passage of this act shall hold office as follows: one for the

Terms of
office.

PART I

term of one year, one for the term of two years, and one for the term of three years, pursuant to the following determination: the commissioners of the canal fund shall meet at the capitol within ten days after such appointment shall be made, and determine by lot, which of said appraisers shall hold his office for one year, which for two years, and which for three years; and the terms of office of such appraisers shall respectively expire as the same shall so be determined by lot, a certificate of which determination shall be filed by said commissioners of the canal fund forthwith in the office of the secretary of state, and there shall be appointed annually thereafter, one canal appraiser in the manner now provided by law, whose term of office shall be for three years.

Salary.

§ 2. The said appraisers shall each receive a salary of two thousand dollars a year, and all moneys actually paid by them for travelling expenses at the rate of three cents per mile for all necessary travel, not exceeding, in all, five hundred dollars a year, for each appraiser, and the account of the same in detail to be verified by the oath of the appraiser.

CHAP. 783.

AN ACT in relation to the Auditor of the Canal Department.

PASSED April 17, 1857; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Appointment of auditor.

§ 1. The governor shall appoint, by and with the advice and consent of the Senate, the auditor of the canal department, who shall receive a salary of twenty-five hundred dollars per annum. The said auditor shall hold his office for three years from the first day of January, eighteen hundred and fifty-eight, when the term of office of the present auditor shall expire, and until his successor shall in like manner have been appointed.

Suspension for violation of duty.

§ 2. The governor may, upon the requisition of the commissioners of the canal fund, suspend the auditor of the canal department and appoint a suitable person to perform his duties, whenever, during the recess of the legislature and for thirty days after the commencement of any session of the legislature, it shall be made to appear to him that the said auditor has violated his duty in respect to the issue of the public stocks of this state or in respect to the public moneys in his charge or subject to his draft.

Shall be a member of contracting board.

§ 3. On and after the first day of January next, the auditor of the canal department, in addition to his present powers and duties, shall be a member of the contracting board, created by chapter three hundred and twenty-nine of the laws

of eighteen hundred and fifty-four, in the place and stead of the comptroller, and be invested with all the powers and perform all the duties and be subject to all the responsibilities now conferred by law upon the comptroller, as a member of such contracting board, and from thence forward such contracting board shall consist of the canal commissioners, the auditor of the canal department and the state engineer and surveyor.

§ 4. All certificates of stock hereafter issued by or under the direction of the commissioners of the canal fund and purporting to be issued from the canal department, shall be signed by the auditor of the canal department, instead of the comptroller, and be sealed by the seal of the canal department instead of the seal of the comptroller.

Auditor to sign certificate of stock.

§ 5. All laws and parts of laws, so far as the same may be in conflict with the provisions of this act, are hereby repealed.

CHAP. 376.

AN ACT to provide for the performance of certain duties imposed upon a canal commissioner in cases where he may be disqualified from acting.

PASSED April 15, 1859.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever, from interest, or having been counsel for any claimant of damages against this state, in the matter of such claim, or being related to such claimant, any canal commissioner shall be disqualified from acting in any case where by law any power or duty is imposed upon such commissioner, or the board of canal commissioners, on filing in the office of the auditor of the canal department the certificate of such commissioner, stating his disqualification, the said auditor is authorized, and it shall be his duty to act in the place of such disqualified commissioner, in the matter of such claim.

When commissioner disqualified auditor to act.

CHAP. 495.

AN ACT prescribing the powers and duties in certain cases of the canal board, the canal commissioners, and other officers whose duties relate to the canals of this state.

PASSED April 19, 1859; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The canal board shall not have power to cancel any contract entered into for the enlargement and completion of

Canal board may not cancel

PART I.
contracts
except in
certain
cases.

the canals of this state, unless upon application of the contractor or contractors in cases where the state has failed to make payment according to the contract; nor shall the said board have power to cancel any contract entered into, pursuant to the laws of this state, to keep in repair any completed or uncompleted portions of the canals of this state; and neither the said canal board nor the canal commissioners, or either of them, shall have power to make any allowance to contractors, under contracts for keeping said canals in repair, beyond the sums stipulated to be paid by such contracts; and no abatement or allowance shall be made to any contractor of repairs, from the sum agreed to be paid by him to the state, for the boats, tolls, implements and materials embraced in the inventory exhibited at the letting and attached to the contract for repairs.

Contracts
for ma-
terial.

§ 2. All contract entered into by any canal commissioner, superintendent of canal repairs, or engineer in charge of repairs, for the delivery of timber or lumber for the repairs of the canals, or to do or complete a specific job of work relating to such repairs, and involving the performance of labor, and the furnishing of materials, when not advertised to be let to the lowest bidder, shall be in writing; and such contract, duly authenticated, shall, within fifteen days after the same shall be executed, and before any money shall be paid thereon, be filed in the canal department; and all such contracts shall state the time within which the same is to be performed and executed, which shall not exceed one year from the date thereof.

Office of
assistant
collector
abolished.

§ 3. The office of assistant collectors or assistants to collectors of canal tolls on the canals is hereby abolished, and the duties pertaining to that office shall hereafter be performed by the collectors of tolls, except as herein provided. 29 N. Y., 535.

Room to be
occupied as
collectors'
office.

§ 4. The collectors of canal tolls shall not have the power to select or hire a room or building to be occupied as a collector's office, without the consent of the canal commissioners in charge of the division of the canals on which such collector shall be appointed, and where such office may be located; nor shall any money be paid for the rent of any collector's office unless such canal commissioner shall have approved of the amount agreed to be paid for the rent of any such office. Collectors of canal tolls shall not have the power to designate or select any person to measure, count or inspect any timber or lumber carried in rafts or boats on the canals of this state.

Compensa-
tion to be
fixed by
canal board.

§ 5. The canal board shall, from year to year, when the annual appointments are made, fix and determine the compensation and salaries to be paid to the collectors of canal tolls and their clerks, to the weighmasters and their assistants, and to such other officers and agents connected with the collection of tolls on the canals as the said board are or may be authorized to appoint or employ, which shall not be increased during such year. No clerks shall be employed by any col-

lector of tolls, except when the auditor of the canal department shall certify the same to be necessary to enable such collector to perform the duties of his office. 29 N. Y., 535.

§ 6. For the purpose of protecting the state in its property, revenue and tolls on the canals, the canal board is hereby authorized to appoint ten inspectors and measurers of lumber and timber, and of boats and their cargoes, to be located at such points and places on the canals as may be deemed most expedient to accomplish the objects of the appointment.

Inspectors and measurers to be appointed.

§ 7. The measurers and inspectors authorized to be appointed under the next preceding section, are hereby authorized to administer oaths, when the same becomes necessary, to enable them to discharge the duties of their respective offices.

May administer oath.

§ 8. When any superintendent of canal repairs, or resident engineer having charge of such repairs, shall submit to the canal commissioner in charge the detailed statement of the several anticipated objects of expenditure on the line of the canal under his charge, it shall be the duty of such commissioner, if he dissents from any particular object of expenditure set forth in such estimate, in whole or in part, or if he shall consider the sum estimated for the objects named to be larger than will be required, to state, in writing, on the estimate, his allowance or disallowance of each particular object of expenditure named therein, and of the amount which in his judgment may be required for each work or object; and every such superintendent and engineer shall apply the sums so estimated and allowed to the work or object named in such estimate, and to no other purpose whatever. And all orders and directions given by any engineer to any contractor on the public works, during the progress of the same, and in relation thereto, shall be in writing.

Statement of expenditure.

§ 9. So long as any canal in this state shall be let and under contract, to be kept in repairs in pursuance of law, it shall be the duty of the canal commissioners to cause a boat to be laden so as to draw at least four inches more water than other boats are permitted to draw; such boat so laden shall be run through the whole length of such canal, as often as once in thirty days, day and night, and be weighed and measured at every weigh lock, and the weight of cargo and draft of water stated on the clearance; a report of every such trip or passage shall be made to the auditor of the canal department without delay, accompanied by a full copy of the clearance and the indorsements thereon, and a statement of all the delays occasioned by obstructions in the navigation, or want of water, and the cause thereof. The auditor shall keep a full record of all such reports, and monthly publish a brief statement of the same in the state paper.

Proceedings of commissioners when canals are under contract.

§ 10. The clerk of the contracting board, *ex officio*, is hereby invested with the powers of commissioner of deeds for any part of this state; but such clerk shall not be entitled to

Clerk of contracting board.

PART I.

charge fees for any services he may perform by virtue of this act.

Conflicting
laws re-
pealed.

§ 11. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

CHAP. 86.

AN ACT to repeal certain sections of the act entitled "An act to enlarge the powers and define the duties of the contracting board."

PASSED March 19, 1860; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Sections six, seven, eight, nine, ten, eleven, twelve and fifteen of the act entitled "An act to enlarge the powers and define the duties of the contracting board," passed March fourteenth, eighteen hundred and fifty-seven, shall be and the same are hereby repealed; and all laws and parts of laws repealed by the nineteenth section of the said act, which are not inconsistent with the unrepealed provisions of the said act, shall be, and the same are hereby revived, and shall be in full force after the passage of this act.

CHAP. 213.

AN ACT to provide the means for the completion of the canals of this state, and fully supply them with water, and for other purposes.

PASSED April 9, 1860; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

[Sections 1 and 2 temporary.]

Completion
of enlarge-
ment.

§ 3. The enlargement of the Erie, the Oswego and the Cayuga and the Seneca canals, shall be so far completed in the spring of eighteen hundred and sixty, before they are opened for navigation, as to give the full depth of seven feet channel and the full width of seventy feet to all the completed portions thereof; and upon any uncompleted portions the full depth of seven feet, and as much width as shall be necessary for loaded boats drawing six feet of water to pass each other, without hindrance or delay; and seven feet depth of water shall thereafter be steadily maintained upon all portions of said canals during the navigable season, and the said canals, and also the Genesee Valley and Black River canals, shall be entirely completed, and the construction accounts thereof fully ended and closed before the first day of June, eighteen hundred and sixty-one.

Thus amended by Laws of 1861, ch. 332.

Penalty for
drawing
water from
canals.

[Section 4 temporary.]

§ 5. Any person or persons who shall draw water from any canal in this state, or from any of their feeders or reservoirs, during the navigable season of the canals, to the detriment or injury of the navigation thereof, without authority of law, shall be deemed guilty of a misdemeanor, punishable by imprisonment in the county jail not less than one year, and by fine not less than one thousand dollars, one-half of which shall belong to the complainant and the other half to the canal fund; and every officer, agent and employee of the state, and every contractor for canal repairs, and every person in his employ, and every and any other person having any charge or control over the canals of the state, or any part thereof, or of any lock, waste weir, or other work belonging thereto, or over the water or navigation thereof, who shall directly or indirectly receive or agree to receive any money or other valuable thing, and every person who shall pay or deliver, or offer or promise to pay or deliver, directly or indirectly, to any such officer, agent or employee of the state, or to any such contractor for canal repairs, or any person in the employ of such contractor, or to any other person having any charge or control over the canals of the state, or the locks, waste weirs or works, or the water or the navigation thereof as aforesaid, any money or other valuable thing in consideration of, or as an inducement for drawing water from any canal, feeder or reservoir belonging to the state; to propel any machinery, or for any hydraulic or other purposes, or from one level to another in any canal in order that such water may be so discharged, shall be deemed guilty of a misdemeanor; and on conviction thereof, shall be punished in the same manner, and to the same extent as is heretofore provided in this section for like offenses. 34 N. Y., 400.

[Section 6 temporary.]

CHAP. 124.

AN ACT concerning the navigation of the Canals and the collection of tolls.

PASSED April 3d, 1861; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Any boat may move on any of the enlarged canals of this state, at any rate of speed that may be fixed by the canal board, not exceeding six miles an hour.

Speed of
boats.

§ 2. When any boat propelled or towed by steam, in passing on either of the canals of this state, shall meet or overtake any other boat or float, not so propelled or towed, except when such boat or float is waiting its turn for lockage, it shall be the duty of the master of each, to turn out so as to allow

Steamboats
to have the
right to
pass.

PART I.

the boat propelled or towed by steam, to pass on the berme side of the canal. Every master or boatman, who shall violate any provision of this section, shall for each offence, forfeit the sum of ten dollars.

Collectors
not to give
credit.

§ 3. Collectors of canal tolls not give any credit for tolls on boats or cargo; and any collector or his clerk who shall violate the provisions of this section, shall be removed immediately from office.

Collectors
and weigh-
master to
reside at
place where
office is.

§ 4. Every collector of canal tolls and every weigh-master shall reside at the place where the office to which he is appointed, is located, and every such collector or weigh-master shall give his personal attention to the duties of his office. Every weigh-master or weigh-master's clerk, who shall weigh a boat and cargo, shall enter the true weight thereof on the face of the clearance, with the light weight of the boat, as it appears by the light weight register, in such weigh-master's office; and every weigh-master or his assistant or clerk, who shall knowingly make a false entry of the true weight of such boat or cargo, or shall make a false certificate of the light weight of any boat, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment, or both; the fine not to exceed five hundred dollars, and the imprisonment not to exceed two years, in the county jail.

Water not
to be drawn
on Syracuse
level, &c.

§ 5. It shall not be lawful for any person or persons to draw water on to the Syracuse level, from any other level of the Erie canal, during canal navigation, except what is necessary in lockage of boats, the filling of the level in the spring, and in case of breaks thereafter except by the special direction of the canal commissioners or the state engineer and surveyor, and then only when the level, from which such water is drawn, contains at least seven feet in depth of water. Any person or persons who shall draw or use water in violation of the provisions of this section, shall be deemed guilty of a misdemeanor, punishable by fine or imprisonment for each offence; the fine not to be less than five hundred dollars or exceeding one thousand dollars, and the imprisonment not to exceed two years, in the county jail; one-half of the fine to belong to the complainant, and the other half to the canal fund.

Duties of
auditor.

§ 6. The auditor of the canal department is authorized and required, whenever there is a short supply of water for the Syracuse level, insufficient to maintain fully seven feet in depth upon all portions thereof, and supply the Oswego canal, to suspend the weighing of boats at the Syracuse weigh-lock, and stop all use or leakage of water through the same; and in case of such deficiency the canal commissioners are authorized and directed to make any arrangement to supply the same within their power, which shall not cost over thirty thousand dollars for the first year, and not to exceed five thousand dollars a year thereafter.

§ 7. All acts and parts of acts inconsistent with this act are hereby repealed.

CHAP. 177.

AN ACT in relation to the Auditor of the Canal Department.

PASSED April 12, 1861; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be the duty of the auditor of the canal department to pay into the treasury, all moneys now held by him in trust for the people of this state, and the several contractors for repairs on the canals of this state, to whom repair contracts have been awarded by the contracting board, and shall also pay into the treasury all such moneys as may hereafter come into his hands to be held as security for the performance by a contractor of a repair contract, and the moneys so paid into the treasury shall be kept separate and apart from other moneys and funds belonging to this state, and shall be known and denominated as the "repair trust fund."

Auditor to pay moneys into the treasury, &c.

§ 2. The moneys so paid into the treasury by the said auditor, shall be invested, and the interest on such investments shall also be invested by the commissioners of the canal fund, in the same manner as now provided by law in respect to the surplus revenues of the canal fund, but the sum of money deposited by each contractor with the auditor and paid into the treasury, shall be invested separately from the moneys deposited by other contractors, so as that the same may be distinctly known and appear on the books of the canal department, and in the proceedings of the commissioners of the canal fund.

Moneys to be invested by commissioners of canal fund.

§ 3. Whenever any contractor or contractors or his or their assignee or assignees fail to perform his or their contract, and the same shall be declared forfeited or abandoned, the moneys so deposited by such defaulting contractor or contractors or his or their assignee or assignees with accumulations thereon shall be transferred from the said trust fund to the canal fund and thereafter held as a part of that fund; and whenever any contract, for the performance of which any deposit has been or is made as security, shall be fully executed and performed, the sum or sums so deposited with the accumulations thereon shall be repaid to such depositor on the warrant of the auditor, on the production to him of the draft of the canal commissioner in charge of the section or work under contract.

When contractors fail to perform their contract.

§ 4. The auditor of the canal department shall hold his office for the term of three years. He shall receive an annual salary of two thousand five hundred dollars, commencing on the first day of October last, in respect to the present incumbent, to be paid monthly out of the canal fund.

Term of office of auditor.

§ 5. The said auditor may designate one of his clerks as deputy auditor, who, in case of the sickness or absence of said

Deputy auditor.

PART I.

auditor, may perform any of his duties, except such duties as pertain to the contracting board, the drawing of warrants on the treasury, the auditing of accounts and the transferring of canal fund moneys from one depository to another.

Compensation of clerks in canal department.

§ 6. The said auditor is hereby authorized to allow and pay the sum of eight hundred dollars annually, or so much thereof as he may deem necessary beyond the sums now limited by law, as a compensation to the clerks employed by him in the canal department, but the whole sum paid for clerk hire, in the department, in any one year shall not exceed eight thousand dollars.

Annual report.

§ 7. The annual report and statement required by the fourteenth section of the act, chapter one hundred and sixty-two of the laws of eighteen hundred and forty-eight, to be made by the auditor to the commissioners of the canal fund, shall hereafter be made to the legislature, and shall embrace all the particulars heretofore required in the annual report of the commissioners of the canal fund.

§ 8. All acts and parts of acts, inconsistent with the provisions of this act, are hereby repealed.

CHAP. 169.

AN ACT relating to the enlargement and completion of the canals of this State, and to reduce the number and regulate the employment of engineers thereon.

PASSED April 10, 1862; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Contracts to be finished prior to 1st September, 1862.

§ 1. All contracts for the enlargement and completion of the canals of this state, as contemplated by section three of article seven of the constitution, and not hereinafter provided for, shall be executed and performed in accordance with the plans, maps and specifications heretofore prescribed and adopted on or before the first day of September next after the passage of this act, and the accounts for the said enlargement and completion shall be closed as soon thereafter as may be, and no more work shall thereafter be done, or materials procured, under pretence of enlarging and completing said canals, and the same shall be deemed and considered finished and completed, and from that time all the powers and authority of the contracting board in relation to the enlargement, completion and construction of such canal shall cease.

Canal board prohibited from changing plan of completing canals.

§ 2. After the passage of this act the Canal Board shall not have power to change the plan of finishing and completing the work of enlarging and completing said canals as heretofore fixed and determined by the resolutions of said board; nor shall the said board have the power to change the plan

of construction of a completed canal, its banks, locks, waste weirs, culverts, bridges, or any other structure or matter or thing connected therewith, except to allow and certify to such works of extraordinary repairs and improvements in a completed canal as is contemplated by the existing statutes of the state.

§ 3. Hereafter, no more than one division engineer and a resident engineer shall be employed upon each division of the said canals. The said division engineer and resident engineer shall be appointed by the canal board, and they shall be practical engineers, and have the certificate of the state engineer as to fitness, capacity and integrity; and the said board shall fix the compensation of such engineers. The state engineer and surveyor shall prescribe and define the duties of the engineers so appointed, and shall assign each division engineer and resident engineer to a division of the canal corresponding with the division of each of the canal commissioners. The first, second, third and fourth sections of the act entitled "An act prescribing the powers and duties of the state engineer and surveyor, and of the engineers employed on the public works," passed April tenth, eighteen hundred and fifty, are hereby repealed.

As amended by Laws of 1865, ch. 477. Post, vol. 6, p. 490.

§ 4. In case it may be necessary to employ, temporarily, additional assistance to aid the engineers in the performance of some specific job of work or duty, the same may be done by the division engineer in charge where the work is to be performed, with the assent of the state engineer and surveyor and the commissioner in charge of the division where the work is to be performed; and the said state engineer and surveyor and canal commissioner shall file a statement in the canal department, containing the names of the persons to be employed, the nature of their duties, severally, and the daily compensation to be paid to each, and the periods during which such employment is to continue. And every engineer appointed by the canal board under this act shall, before entering upon the duties of his office, file in the canal department his bond, duly executed to the people of the state, in such sum and with such surety for the faithful discharge of his duties as the auditor shall approve, and shall take and subscribe the constitutional oath of office, which oath shall be filed in the office of the secretary of state. No money shall be advanced to any engineer on account of services rendered; nor shall any account of moneys disbursed by him be audited until the provisions of this section shall have been fully complied with.

As amended by Laws of 1865, ch. 477. Post, vol. 6, p. 490.

§ 5. The services and duties performed by the said engineers shall be such as relate strictly to the repairs and maintenance of the completed canals of the state, and the compensations allowed and expenses incurred under the provisions of this act, shall be paid out of the appropriation for superintendence, collection and ordinary repairs of the canals.

PART I.
Champlain
and Glens
Falls feeder
exempted
from limita-
tion.

§ 6. The limitation fixed by the first section of this act for closing the construction accounts and contracts for work on the canals of this state, shall not apply to the work now in progress on the Champlain canal and Glen's Falls feeder, authorized by the act entitled "An act to provide the means for the completion of the canals of this state, and fully supply them with water, and for other purposes," passed April ninth, eighteen hundred and sixty, nor to any work on the said canal and feeder under the authority of said act.

CHAP. 348.

AN ACT in relation to the publication of notices by the contracting board.

PASSED April 19, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Publication
of notices.

§ 1. The public notice required to be published by the first section of the act entitled "An act to enlarge the powers and define the duties of the contracting board," passed March four, eighteen hundred and fifty-seven, shall be published at least thirty days in the state paper and shall also be published at least three weeks, in not more than three newspapers published in the division districts in which the work or portion of the canal intended to be let is located, and not otherwise; and all the provisions of the said first section of the said act, inconsistent with the provisions of this act, are hereby repealed; but this repeal shall not affect or invalidate any notice given by the said contracting board in accordance with the provisions of the act hereby amended, and which may be pending at the date of the passage of this act.

Saving
clause.

CHAP. 354.

AN ACT for the protection of bridges belonging to the State, or under its control.

PASSED April 19, 1862; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

No driving
over
bridges of
the state
faster than
a walk.

§ 1. It shall not be lawful for any person to lead, ride or drive any horse or horses, mule or mules, faster than on a walk over any bridge belonging to or under the control of this state, which is now or may hereafter be erected over any canal, canal feeder, stream or river thereof.

Cattle.

§ 2. No person shall hereafter drive any cattle across any bridge or bridges referred to in the first section of this act, at a

faster rate than upon a walk, and shall not, in so driving them over, permit more than twenty-five cattle to be upon any such bridge at one time.

§ 3. Any person violating either of the provisions of this act shall be liable to a penalty, for each offence, fifteen dollars, to be sued for and recovered in any court having cognizance thereof, by the contractor, in the name of the people of this state, whenever such bridge or bridges, where the offence shall be committed, shall be embraced within his repair contract, and in all other cases by the superintendent of canal repairs. Such penalty when recovered shall be credited to the state in the first settlement thereafter of the accounts of such contractor or superintendent with the state.

Penalty.

CHAP. 415.

AN ACT to adapt the canals of this state to the defence of the northern and northwestern lakes.

PASSED April 22, 1862; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever the government of the United States shall provide the means, either in cash or their six per cent stock or bonds, redeemable within twenty years, for defraying the cost of enlarging a single tier of locks, or building an addition tier in whole or in part upon the Erie and the Oswego canals, including any necessary alteration of said canals, or their structures, to a size sufficient to pass vessels adequate to the defence of northern and northwestern lakes, the Canal Board shall, without delay, put such work under contract, in the manner now required by law, to be constructed and completed at the earliest practicable period, without serious interruption to navigation, with power in the discretion of the Canal Board, to direct the construction of new and independent locks, when found more advantageous. The said Canal Board shall, whenever the government of the United States shall provide the means as aforesaid, construct a canal of the requisite dimensions and capacity, from the Erie canal, at or near the village of Clyde, to some proper point on the Great Sodus Bay or Lake Ontario.

When locks to be enlarged, or new ones built.

When canal to be built to Great Sodus Bay.

§ 2. The Canal Board are also hereby authorized, in like manner to enlarge the Champlain canal, and its locks and other structures, to a size sufficient to pass vessels of like capacity, in case the government of United States shall, in like manner, provide the means required for that purpose.

Champlain canal.

§ 3. The dimensions and character of all the work herein above mentioned, shall be determined by the Canal Board, subject to the examination and concurrence of the War De-

Authority of canal board.

PART I.

partment of the government of the United States. Contracts for any of said work may be made payable in the said six per cent stock and bonds of the United States, if the Commissioners of the Canal Fund shall so elect.

Right of
general gov-
ernment.

§ 4. On completing the said work on either of the said canals, the government of the United States shall have the perpetual right of passage through the canals thus enlarged or built, free from toll or charge, for its vessels of war, boats, gun boats, transports, troops, supplies or munitions of war, subject to the general regulations prescribed by the state from time to time, for the navigation of its canals.

Appropriation
of moneys.

§ 5. Any moneys or other means which may be received from the government of the United States, to pay for any of said work, are hereby appropriated to be expended for the purposes herein above mentioned.

Saving
clause.

§ 6. But nothing in this act contained shall authorize the contracting or incurring of any debt or liability, directly or indirectly, on the part of the state, or the expenditure of any means or money of the State of New York for the purposes specified in this act.

CHAP. 326.

AN ACT regulating the manufacturing of salt in the town of Salina.

PASSED April 21, 1825.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

[The General Repealing Law of the Revisers, (Laws of 1823, second session, chap. 21,) repealed all of this statute except the following sections.]

Salt manu-
facturing
lots.

XLIV. *And be it further enacted*, That it shall be the duty of the superintendent of the Onondaga salt springs, as soon as may be after the passing of this act, to lay out into salt manufacturing lots, of six rods in front as nearly as may be, the blocks of one hundred feet depth, bordering on the north-easterly side of the lateral canal, as laid out by the surveyor-general, from the Walton tract to the village of Salina, which have not already been so laid out; that if any individual or company having the right to any such lot, or to any other lot laid out according to the provisions of the act entitled "An act to amend the several acts in relation to the salt springs in the county of Onondaga," passed April 23d, 1823, as a salt manufacturing lot, shall have erected on such lot a suitable and convenient salt manufactory, to contain a good and sufficient building, with ample store-rooms, and proper and suitable reservoirs or cisterns for holding salt water, and a block of kettles not less than fourteen in number, of the capacity of at least ninety gallons each, well set therein, it shall be the duty of the superintendent to lease such lot to him or them.

on the same terms and conditions as are imposed in the leases of the salt manufacturing lots laid out under and by virtue of the last mentioned act, and to expire at the same time with those leases: *Provided*, That not more than one manufactory of two blocks of kettles shall be erected on any one of such lots.

Proviso.

XLV. *And be it further enacted*, That it shall be the duty of the superintendent of the Onondaga salt springs to lay out so many salt manufacturing lots as he may think necessary, on any of the lands of the state lying on the north and south banks of the canal, in and adjoining the village of Geddes, reserved for the use of salt manufactories, five rods in front on the canal, and of sufficient depth for the accommodation of salt manufactories; and in case the present holders of salt marsh lots at said village of Geddes, or any of them, shall, on or before the first Monday of June next, surrender or release their lots, or any of them, to the people of this state, it shall be the duty of the said superintendent to lease to the several persons making such surrender or release, two lots so laid out on the canal, for each of the marsh lots so surrendered or released, with all the privileges granted to lessees and manufacturers at the said village of Geddes by the fifteenth section of the act relating to salt springs in the county of Onondaga, passed June 15th, 1812, and to expire at the same time; and the person making such surrender or release, shall, by lot, draw for their respective lots on the canal, under the direction of the superintendent: *And further*, That it shall and may be lawful for the said superintendent, by and with the consent of the canal commissioners, to take from the Erie canal at Geddes, water sufficient to carry a pump, for the purpose of raising salt water from the reservoir at Geddes to supply the works on the canal to be erected under this act: *Provided*, That the water hereby authorized to be taken from the canal, shall be used for no other purpose than for pumping salt water, and may at any time be taken, lessened, or stopped by the canal commissioners, or by the superintendent of the Onondaga salt springs, whenever the same may in their opinion be necessary for the use of the locks, or for the pumps at Salina.

The like in
Geddes-
burgh.

Proviso.

XLVII. *And be it further enacted*, That it shall be the duty of the said superintendent, inspector and engineer, at their first monthly meeting to be held pursuant to the provisions of the twelfth section of this act, or as soon thereafter as may be, to examine and determine, according to the provisions of all the laws existing prior to the passing of this act, the priority of the rights of the several salt manufactories upon the said reservation, whether they be manufactories of coarse or fine salt, to the salt water to be drawn from the wells belonging to the state, and which shall be taken possession of for the use of the state, pursuant to the provisions of this act; and they shall make a list of all the said manufactories, dis-

Priority of
rights.

PART I.

tinguishing therein which are manufactories of coarse, and which manufactories of fine salt; and shall set opposite to each of the said manufactories upon the said list, the name or names of the owner or owners of every such manufactory; and shall number the said manufactories so placed upon such list, putting the manufactory or manufactories first entitled to said salt water first upon the list, and marking them number one; the manufactory or manufactories second entitled to the said salt water, second upon the said list, and marking them number two; and so on, until the whole are numbered; and all manufactories hereafter to be built upon any part of the said reservation not now actually leased or built upon, shall be placed upon said list as the same shall be put into operation, according to the dates of the leases of the lots upon which the same shall be erected, the oldest lease having priority; and the determination of the said superintendent, inspector and engineer, when so made, shall be final and conclusive as to the right of every such manufactory to the water to be drawn from the wells, and furnished from the pump works belonging to the state; and the said superintendent shall cause such list, so made out and signed by him and the said inspector and engineer, to be printed and made public in the same manner that the rules, ordinances and regulations of the said salt works are to be printed and published; and the said engineer shall thereafter supply the said several manufactories now erected, or hereafter to be erected, with salt water, according to the priority of their rights, as established by the said list, and not otherwise: *Provided*, That any person aggrieved by any decision of said officers, may within thirty days appeal therefrom to the circuit judge of the seventh district, who shall proceed to review and re-examine such decision at such time and place, and in such manner as he shall think proper, and he may reverse, confirm or modify such decision, and his determination in the premises shall be conclusive, and the expense of such appeal to be defrayed by the appellant, and before the hearing of such appeal, six days notice in writing shall be given to the said superintendent: *And provided further*, That nothing in this section contained, shall prevent the present manufacturers of salt, in the village of Geddes, who may exchange their lots in the manner directed in the forty-fifth section of this act, from receiving their supply of water, in the same manner as though no such exchange should be made, and their manufactories respectively, shall be placed upon the said list, and numbered according to their rights as now existing: *And provided further*, That the said engineer shall not furnish, or permit to be furnished, from the pump works belonging to the state, any salt water to any manufactory not placed upon said list.

Proviso.

Further
provisos.

CHAP. 340.

AN ACT in relation to the Montezuma salt springs.

PASSED October 26, 1847.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The commissioners of the land office are hereby authorized to lease to any person or persons, the Montezuma salt springs and the lands contiguous thereto, upon such terms and for such a length of time as shall, in their estimation best secure the interests of the state; but every lease executed under the provisions of this act, shall contain a clause, reserving to the state the power and right of terminating such lease, upon notice being given to the persons or some of them interested therein, of the intent so to do, by said commissioners, in such manner and for such a time as shall be determined by such commissioners, and upon terms best calculated to save the equities and rights of the persons interested in any case which may be terminated as aforesaid.

Springs and
lands of the
state may
be leased.

§ 2. Every lease executed under this act, shall be conditioned that the lessee or lessees shall make all such erections as may be necessary to give a supply of brine for the manufacture of salt, and for carrying on and keeping the works in repair during the term of such lease, and shall further contain such other conditions and restrictions as may be deemed proper by said commissioners to secure the lessee or lessees in the peaceable use of said lands and springs, and indemnify the state against any and all expenditures and expenses in or about manufacturing salt at said springs during the running of any such lease.

Conditions
to be put in
the lease.

CHAP. 346.

AN ACT to dispose of certain vacant and unoccupied lands belonging to the Onondaga salt springs reservation, and for other purposes.

PASSED April 12, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 2. The said commissioners (of the land office) shall appoint three discreet persons, whose duty it shall be to ascertain and appraise the value of the said lots of land severally, which appraised value they shall mark in legible characters upon the respective lots as they are represented on the maps: and it shall also be their duty to ascertain and appraise the value of any erections upon either of the said

Appraisers
to be ap-
pointed.

PART I.

Railways
over the
salt lands.

lots and mark the ascertained value of such erections upon the corresponding lot as represented on the maps and when they shall have completed the same they shall transmit one copy to the state engineer and surveyor and the other to the superintendent of the Onondaga salt springs, and report the fact to the commissioners of the land office.

§ 7. Whenever it shall be necessary for any railroad company to occupy any of the salt lands belonging to this state for the use of their road, the same shall be appraised in the manner provided for in the second section of this act, and when they shall pay into the treasury of this state, the said appraised value, they shall become possessed of the same to the same extent as by their charter they are authorized to become possessed of lands belonging to individuals.

[It is supposed that the following act passed in 1859, was intended to codify and supersede all prior legislation on the subject of the manufacture of salt. Such is the opinion of the present capable and experienced superintendent of the Onondaga salt springs, who was the author of that act, and the editor's opinion is the same. But unhappily the act of 1859, instead of repealing prior enactments specifically repeals only such as are additions to or emendations of the Revised Statutes; so that as to each enactment between 1829 and 1859, it has first to be determined whether it is an addition to or amendment of the Revised Statutes, before it can be ascertained whether it is yet in force or not. This it is not in the power of the editor to determine; and as he is driven to the alternative of inserting them all or of determining that all are repealed, he compromises the matter by publishing only the act of 1859, and giving the following reference to acts which may or may not be in force:

Laws of 1832, chap. 243.

Laws of 1834, chap. 201.

Laws of 1838, chap. 291.

Laws of 1839, chap. 227.

Laws of 1841, chap. 183.

Laws of 1842, chap. 302.

Laws of 1843, chap. 229.

Laws of 1846, chaps. 71, 188.

Laws of 1847, chap. 198.

Laws of 1848, chap. 187.

Laws of 1856, chap. 95.

Laws of 1857, chap. 578.

Laws of 1859, chap. 346.]

CHAP. 346.

AN ACT concerning the Salt Springs and the manufacture of salt.

PASSED April 15, 1859 ; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

ARTICLE I.

GENERAL PROVISIONS.

§ 1. There shall be collected and paid upon all salt manufactured in this state, a duty of one cent per bushel of fifty-six pounds, which duties shall be paid into the general fund. Duty to be paid.

§ 2. The salt springs belonging to this state, including all salt water existing on the Onondaga salt springs reservation, shall not be sold or otherwise disposed of. The lands contiguous thereto, which are necessary and convenient to the use of the salt springs and the public works thereon, are to be and remain forever the property of the state ; but such lands as have been reserved or used for the purpose of the manufacture of salt, may be sold by authority of law, under the direction of the commissioners of the land office, with a view to the exchange of the same for other lands more conveniently located or in larger quantity, in which the proceeds of the lands so sold shall be invested ; but by such sale and repurchase, the aggregate quantity of lands appropriated to the manufacture of salt shall not be diminished. Salt springs shall not be sold.

ARTICLE II.

OF THE OFFICERS ENTRUSTED WITH THE SUPERINTENDENCE OF THE SALT SPRINGS.

§ 3. The care and superintendence of the salt springs and of the manufacture and inspection of salt upon the salt springs reservation, in the county of Onondaga, shall continue to be vested in the "superintendent of the Onondaga salt springs," according to the provisions of this act. The said superintendent shall hold his office for three years ; but the governor or chief executive officer of the state for the time being may remove the superintendent from office, for cause shown, and after a fair hearing, and appoint another person in his place to hold the office for the same time and by the same tenure as the officer removed would have held if he had not been removed. Officers.

§ 4. Every person hereafter appointed to the office of superintendent of the Onondaga salt springs shall, within thirty days after he shall receive notice of his appointment, and before he shall enter upon the performance of the duties of his Bonds to be executed, &c.

PART I.

office, execute a bond in the sum of thirty thousand dollars to the people of this state, with not less than five sufficient sureties, to be approved by the comptroller and filed in his office, whose approbation shall be indorsed on said bond, conditioned that such person shall faithfully perform the duties of the said office, as the same are or may hereafter be prescribed by law.

Manufacturing districts.

§ 5. There shall be four manufacturing districts upon the Onondaga salt springs reservation, as follows: District number one, or Syracuse; district number two, or Salina; district number three, or Liverpool; and district number four, or Geddes; and the public offices for the transaction of the business connected with the manufacture of salt, shall be located as follows, to wit: For district number one, in the third ward of the city of Syracuse; district number two, in the first ward of said city; for district number three, at the village of Liverpool; and for district number four, at the village of Geddes.

Officers whom superintendent may appoint.

§ 6. The superintendent shall have the power to appoint the following deputies and assistants, viz.: One deputy superintendent for the first district, who shall be receiver and chief clerk, and who shall, in case of the death, removal or resignation of the superintendent, possess all the powers and discharge the duties of superintendent until another shall be appointed; one chief engineer, one chief inspector of salt, one inspector of salt for each of the first, second and fourth districts, and three block inspectors for the second district; one receiver for the second district, who, in addition to the duties now prescribed by law, shall perform all the duties heretofore performed by the inspector's clerk; one receiver for the third district, who shall have authority, if so directed by the superintendent, to perform, in addition to the duties now prescribed by law, all the duties now performed by the inspector in that district; one receiver for the fourth district, who, in addition to the duties now prescribed by law, shall perform all the duties heretofore performed by the inspector's clerk in that district; one overseer of pumps for each district; one supervisor of aqueducts and reservoirs in each district; one chief inspector of barrels, and one assistant barrel inspector for each of the first, third and fourth districts, and two assistant barrel inspectors for the second district, and with the assent of the comptroller, such assistant pumpers, inspectors, weighers and overseers in addition, as he shall deem it necessary to employ during the business part of the season.

As amended by Laws of 1866, ch. 814. Post, vol. 6, p. 853.

Compensation of officers.

§ 7. There shall be allowed and paid to the several officers employed under this act the following rates of compensation: To the superintendent, the sum of fifteen hundred dollars per annum, to be deducted monthly from any money in his hands drawn from the treasury pursuant to law; to the deputy superintendent, chief engineer and chief inspector of salt, each the sum of one hundred dollars per month; to the receiver for the second district, seventy dollars per month; to each of the inspectors of salt, in the first, second and fourth districts, fifty dollars per month; to each of the block inspectors in the second district, sixty dollars per month, for not more than eight months in each year; to the receiver in the third district, while he performs the duties of inspector as well as of receiver, seventy dollars per month; to the receiver in the fourth district, forty-five dollars per month; to the overseer of pumps in the first district, fifty dollars per month; to the overseer of pumps in the second, third and fourth districts, fifty dollars per month for eight months in the year; to the supervisor of aqueducts and reservoirs in the second district, fifty-five dollars per month; to the supervisor of aqueducts and reservoirs in the first, third and fourth districts, forty dollars per month; to the chief inspector of barrels, seventy dollars per month; to the several assistant barrel inspectors, fifty dollars per month, for such time as their services are necessary; to the assistant pumpers, inspectors and weighers, the sum of fifty dollars per month for not more than eight months during the year.

As amended by Laws of 1866, ch. 814. Post, vol. 6, p. 854.

CHAP. IX
Power of
superin-
tendents,
&c.

§ 8. The said superintendent shall have power to require of the several officers named in the preceding section, and appointed by him, the performance of such duties and services in behalf of the state, as he may consider appropriate and necessary, and may remove them from office at his pleasure, and for their acts, in virtue of their offices, he shall be responsible. Every appointment made by him shall be in writing, and shall be filed in the office of the clerk of Onondaga county. Every person so appointed by him shall, before entering upon the duties of his office, take and subscribe the oath of office prescribed by the constitution, and file the same in the office of the clerk of Onondaga county; and shall also give such bond, with sufficient sureties, to the superintendent, for the faithful performance of his duties, and for the faithful and punctual payment to the superintendent, of all moneys which he shall from time to time receive as such officer, and as often, or at such stated periods as may be required of him.

ARTICLE III.

OF THE GENERAL DUTIES, POWERS AND LIABILITIES OF THE OFFICERS CONNECTED WITH THE SALT SPRINGS.

§ 9. The superintendent of the Onondaga salt springs shall have power, from time to time, to ordain and establish such rules and regulations, not inconsistent with law, as he may deem expedient, respecting:

Officers'
duties and
powers.

1. The manufacture and inspection of salt, and the collection of the duties thereon.

2. The manner and order of receiving the salt water from the state reservoirs and aqueducts, the mode of conducting such to the respective manufactories and erections, and the securing of such water from waste and loss.

3. The examination of the several salt works and manufactories by his deputies, to determine whether the provisions of the law are properly complied with.

4. The loading of salt in bulk, or otherwise, into boats, to be transported upon the canals, or the shipment of salt by railway or otherwise, to be conveyed to market.

5. And in all other respects that shall tend to the more perfect execution of the provisions of this act.

§ 10. He shall, from time to time, provide such additional wells, pumps, reservoirs, aqueducts and machinery as he shall determine to be needful and proper for supplying the manufactories of salt with brine, in the largest quantity and of the best quality, and shall keep the same, and all other works and property belonging to the state, under his charge, in complete repair; and he shall have power to employ competent workmen to make such improvements, erections, repairs and addi-

Wells,
pumps, &c.

PART I.

tions. But no repairs, or alterations involving an aggregate expenditure of more than two thousand dollars shall be made or undertaken, without the approval of the comptroller to be indorsed upon detailed estimates; and no new structures which, upon previous estimates, shall involve an expense of five thousand dollars or more, shall be undertaken, without having also obtained the approval, in writing, of the governor and comptroller.

Penalties,
&c. to be
prescribed
by superin-
tendent.

§ 11. It shall be lawful for the said superintendent to prescribe specific penalties for the violation of the rules and regulations established by him, to the amount of from ten to one hundred dollars for each offense, and to recover the same, with costs, in a court of justice; and he may, at his discretion, withhold the usual supply of brine for the use of the manufactories, until such penalty is paid.

Rules to be
printed, &c.

§ 12. The several penalties prescribed by law, together with the rules and regulations, shall be printed on a fair sheet, and posted up in the several offices of the superintendent, in all the fine salt manufactories and storehouses for coarse salt, and mills for grinding salt, and in such other places as shall be deemed expedient for the information of the public; and the rules and regulations of the superintendent shall be binding after one week from the time they are so ordained and published, and until they are revoked or others are established in their stead.

Report of
superin-
tendent.

§ 13. The superintendent shall, at the expiration of each fiscal year ending on the thirtieth day of September, or within ten days thereafter, make a report to the comptroller stating the quantity of salt inspected during the previous fiscal year, the amount of revenues accruing thereon, and from other sources, the expenditures made by the superintendent, and the amount which in his judgment will be necessary for the support of the salt springs for the ensuing year. The superintendent shall also, within fifteen days from the first day of January in each year, make a report in detail to the legislature of his doings during the year just then expired, embracing such information in regard to the manufacture of salt and the situation of the public works, and submitting such recommendations for their further improvement and extension as he shall deem necessary and proper.

Office hours

§ 14. The superintendent's offices, in the several districts, shall be kept open from sunrise to sunset every day, except Sunday and the fourth day of July; and all persons may resort, during office hours, to either of said offices and examine the books of entry kept by the superintendent.

List of
officers.

§ 15. A list of the names of all the persons holding office by the appointment of the superintendent, shall be kept conspicuously posted in each of the receivers' offices in the several districts, for the information of all persons interested in knowing who are in authority in the management of the salt springs.

§ 16. It shall be the duty of each of the officers connected with the salt springs, and acting by authority, to prosecute in the name of the superintendent for all penalties imposed or prescribed by statute or by the rules and regulations, if the commission of any offense, punishable by a penalty, shall come to his knowledge, either by his own examination or observation, or by information of any other person furnishing satisfactory proof of the offense alleged.

CHAP. IX.
Officers to
prosecute,
&c.

§ 17. It shall be the duty of the superintendent and of his deputies to prosecute all persons who shall knowingly commit a trespass upon any of the lands belonging to the state, or who shall willfully do any damage to any of the machinery, erections, fixtures, or other property of the state.

Superin-
tendent's
and depu-
ties' duties

§ 18. Neither of the officers connected with the salt springs shall be in any way concerned in the manufacturing or selling of salt, or have any interest whatever, directly or indirectly, in any salt manufactory or erection for the manufacture of salt, or in the profits of any such manufactory, or in any labor or materials, or contracts for doing any work on the salt reservations, or which may be done under the provisions of this act.

Officers not
to be con-
cerned in
manufac-
turing, &c.

§ 19. The superintendent, and the several persons holding office by his appointment, shall be liable to indictment and punishment, as for a misdemeanor, for any wilful neglect of duty, or for any malpractice in the discharge of their public duties.

Neglect of
duty.

§ 20. The superintendent shall be deemed to be in possession of all the lands, wood, timber, trees, buildings, erections, pumps, and machinery of every kind, and of all water-courses, conduits, wells, aqueducts, springs, and all other property belonging to the people of this state connected with the salt works, on the salt springs reservation, in the county of Onondaga; and he shall have the charge, government and management of the same, under such provisions as shall be prescribed by law, and he shall superintend and have charge of the salt water, and shall regulate and control the delivery of the same to the manufacturers of salt.

Superin-
tendent to
be in pos-
session of
certain
property

§ 21. Whenever any person shall be in possession of said lands or property, or any part thereof, without proper authority or right, it shall be the duty of the superintendent to cause such person to be removed therefrom, and to take possession of the same.

Persons in
possession
of property
without
right.

§ 22. The superintendent may sue in his name of office for the recovery of damages for any injury to such lands or property, according to the nature of such injury; and any under-letting, diversion or use for any other purpose than the manufacture of salt, of any of the lots that have been or may be leased by the superintendent, to any person or persons, for such manufacture, is strictly forbidden, and shall work a forfeiture of the leasehold estate; and it shall be the duty of the superintendent, in case of such forfeiture, to obtain possessions of the lands so forfeited by action of ejectment.

Superin-
tendent
may sue,
&c.

PART I.
May lease.

§ 23. The superintendent may lease to any person any of the lots or lands of this state reserved for the manufacture of salt, and not lawfully held or occupied for that purpose, but not for a longer period than three years.

Superintendent may receive moneys, &c.

§ 24. The superintendent shall receive all moneys payable to the state for all duties, rents, fines or penalties specified in this act, or in any manner arising from the salt springs or the property of the state connected with the salt manufacture.

Books to be kept.

§ 25. The superintendent shall keep in each of his offices regular books of entries, in which all his accounts and transactions shall be entered.

Superintendent shall deposit money, &c.

§ 26. The superintendent shall deposit in each week, to the credit of the treasurer of this state, in such bank or banks as may be designated by the canal board, all the moneys received by him as such superintendent, and on Monday of each week he shall transmit to the comptroller a statement showing the amount of the revenues collected and received by him, and so deposited during the preceding week.

Statement to be forwarded to comptroller

§ 27. On the first Monday in each month, the superintendent shall forward a statement to the comptroller, exhibiting the whole amount of revenues collected by him during the preceding month, and the amount in each week, together with a transcript of the receiver's books in each of the manufacturing districts.

Neglect to make monthly returns.

§ 28. If at any time the superintendent shall neglect to make such monthly returns, or to make or transmit the certificate of such deposits to the comptroller, as herein directed, it shall be the duty of the comptroller to order the bond of the superintendent to be put in suit, for the recovery of any moneys which may be in his hands, belonging to the state; and such neglect or omission of duty shall be deemed cause for the removal of said superintendent, by the governor, or any person administering the duties of the governor for the time being.

Books of entry.

§ 29. The superintendent is hereby authorized to provide suitable books of entry, blank books, blank inspection bills, returns and forms, and stationery for the use of himself and his deputies in the performance of their official duties.

Superintendent to take possession of lands.

§ 30. The superintendent shall have power to take possession of and occupy the lands and tenements of any person or association, or any spring or well of salt water in possession of any person or association, by virtue of any lease or grant thereof, heretofore given or hereafter to be given, under any law of this state, that may be necessary for the erection or construction of any reservoir, aqueduct, pump, pump-house, or other buildings therewith connected, or for providing and furnishing the necessary supply of salt water as directed by this act, or for procuring convenient access thereto.

Proprietor of any property to be paid for land, &c.

§ 31. The proprietor of any property so taken shall be paid the reasonable value thereof, to be fixed by agreement between such proprietor and the superintendent. If no such

agreement shall be made, such value shall be ascertained by the appraisement of three commissioners, to be appointed by a justice of the supreme court, on the application of either party, with ten days' previous notice of the time and place of such application to the other party.

§ 32. The superintendent shall pay the amount of damages so agreed upon or awarded, and the expenses of the appraisers, if any be employed, and charge the same in his account. Damages.

§ 33. It shall be the duty of the superintendent to cause the quantity of water which may from time to time be required for the efficient working of the pumps, or other machinery, for raising salt water from the wells and reservoirs now constructed, or which may hereafter be constructed, in the first, second and fourth districts, to be ascertained by competent engineers, and to certify the same to the canal commissioner in charge; and it is hereby declared to be the duty of such canal commissioner in charge, on receiving such certificate, to cause the quantity of water, thus certified and required by the superintendent, to be at all times supplied to the Syracuse level of the canal, in addition to that usually required or supplied for the purposes of navigation, excepting, however, any period during which it shall be necessary to withdraw the water from said level for repairs. The certificate of the said superintendent shall be filed in the office of the said canal commissioner, and it shall be lawful for the superintendent, at all times, to draw from the canal the amount of water thus ascertained to be necessary, to be used for the purpose aforesaid, provided the navigation of the canal be not thereby impeded; and all bulkheads, gates and other appurtenances required for taking and regulating the flow of such water shall be constructed and maintained by said superintendent. Water,
quantity to
be ascer-
tained.

§ 34. It shall be the duty of the superintendent to keep on file, in each of the receiver's offices, a numerical list of the fine salt blocks in the several districts, with the name of the owner or occupant, in which list shall be designated the several manufactories which are entitled to the first use of the water; said list shall also state the date of any additional erections, entitled to the surplus water in the order of their erection. A similar list shall also be kept of the coarse salt erections, including the number of covers or rooms, in like manner entitled to the first use of the water, and also of all subsequent erections entitled to supplies from the surplus. Numerical
list of salt
blocks to be
kept.

§ 35. All charges against the state, or liabilities incurred for the support and maintenance of the Onondaga salt springs, shall be audited and paid by the superintendent, out of the moneys to be advanced to him, from time to time, by the treasurer, upon the warrant of the comptroller. Charges
against the
state.

§ 36. It shall be the duty of the superintendent, before drawing any money from the treasury to be expended by him, to make out an estimate, in minute detail, of the necessary Estimate
to be made
out.

PART I.

expenses to be incurred, for a period of two months, so far as they can be reasonably foreseen, commencing with the month of January, and to forward the same to the comptroller, who shall thereupon authorize the superintendent to make his draft upon the treasurer, for the amount of such estimate, or for such portion thereof as he shall think necessary and proper. And to meet any extraordinary expenditure, the superintendent may in like manner, make special estimates, which the comptroller shall advance in like manner, if the same be approved by him. But in no case shall the superintendent be authorized to receive from the treasury a larger sum than the amount of the appropriations made by the legislature for the support of the salt springs.

Abstract of
vouchers.

Oath.

§ 37. At the expiration of each period of two months, as aforesaid, the superintendent shall make a full and perfect abstract of the vouchers in his possession, to which the following affidavit is to be attached, which may be sworn to before any person authorized to administer oaths, to wit: "I (A. B.), superintendent of the Onondaga salt springs, do solemnly swear, that I have deposited in the bank designated by the canal board, all the moneys received by me for duties on salt, rents, fines or penalties, or for other property of the state; and I do further swear, that the foregoing is a true abstract of all the vouchers taken by me as superintendent for the two months ending on the—— day of—— 18—; and that the money specified in the receipts of which the above is an abstract, has been actually paid as specified in said receipts; and further, that all the receipts were filled up as they now appear, and were read, or the amount distinctly stated to the signer of each, according to my best knowledge and belief." The report and vouchers shall be returned to the comptroller, and if satisfactory to him, he will enter his approval on the abstract, and shall audit and allow the accounts of the superintendent. The superintendent shall also make out a report, showing the expenditures for the preceding two months, corresponding in its detail of items to the estimate presented before an advance is authorized to be made by the comptroller; if any of said vouchers are objectionable, the comptroller will enter his dissent on the particular voucher, and not audit and allow the same until satisfied of its legality and propriety.

Lines of
aqueducts
to be kept
in repair.

§ 38. The superintendent is authorized to lay and keep in repair the principal lines of aqueducts necessary for supplying the manufacturers of salt with water, and for the equal and proper distribution of the same; and for that purpose he may cross any public highway, and may lay such aqueducts along such highway, avoiding the traveled part thereof, and causing no unnecessary obstructions thereto; but it shall be his duty in all cases, in laying such aqueducts, to provide that no damage shall be done to any street or highway so crossed or occupied, nor shall the convenient or unobstructed use of such

street or highway be impaired thereby; and the said superintendent may enter upon the lands of any individual or company, or upon any leased land, and may carry the salt water across the same, by suitable and proper aqueducts or conduits, paying to the owner of any such lands, or the lessee thereof, the damages which he may sustain thereby, to be ascertained by mutual agreement, or by the appraisement of three commissioners, to be appointed as provided in section thirty-one of this act; but no damages shall be paid to any person or association for such occupancy of their lands, when the same are occupied or used for the manufacture of salt, and are entitled to receive the salt water furnished by the state.

§ 39. The superintendent shall annually, in the month of April, adopt rules and regulations for the ensuing year, in accordance with the provisions of this act, for the guidance and direction of the salt manufacturers, which shall be made public in the manner directed in the twelfth section, article three, of this act.

Rules and
regulations.

§ 40. The superintendent may lay out any vacant lands belonging to the people of this state, within the salt manufacturing districts, not required for other purposes, and being suitable for the manufacture of salt, into lots of the ordinary size, for the erection of fine salt blocks, and lease the same to any person applying therefor, after he shall have erected a manufactory of salt thereon. But no person shall be authorized to enter upon state lands for the purpose of securing the same for the erection of such manufactory, without first obtaining the permission of the superintendent, in writing, nor until the same has been duly surveyed and mapped. The superintendent may likewise lease to any person any vacant or unoccupied lot or part of a lot, which he may consider necessary or proper to attach to any existing lot, to be used by such lessee as a part of his manufacturing premises; but no grounds in the immediate vicinity of any of the pump-houses or other public works, vacant or unoccupied at the time of the passage of this act, shall be hereafter laid out or occupied for manufacturing purposes, but the same shall be preserved for the use and convenience of the state.

Vacant
lands.

§ 41. In the furnishing and distribution of brine, hereafter, to the fine and coarse salt erections, from the Onondaga salt springs or wells, no distinction shall be made between the works situated on state lands and those built on private lands, but each and all of the erections which were in existence on the fifteenth day of April, eighteen hundred and fifty-eight, shall be considered equally entitled to a supply of water from the said springs, of as near the same quality as may be; but in case there shall be an insufficiency of brine to supply all the said erections, then the superintendent shall classify the same in such a manner as to furnish a full supply of water to each of said erections, an equal portion of the time that there shall be a deficiency in the supply. And the superintendent

Brine, dis-
tribution of.

PART I.

shall, during the months of July and August, classify favorably to the erections for the manufacture of solar salt, but such classification shall not give the said erections a supply for more than an equal portion of the time, as above mentioned; and in case the said springs shall produce a greater supply of water than will be needed for fully supplying the present erections during the entire manufacturing season, such surplus may be furnished to any erections on leased or private lands, in the first, second and fourth districts; that have been erected since the fifteenth day of April, eighteen hundred and fifty-eight, or that may be hereafter erected in said districts, to be furnished to them in the order of their erection, the superintendent keeping a record of such erections in his office, for the purpose of determining their priority, and giving a certificate thereof to the manufacturer or owner of any such blocks or works, if required. The setting apart by the commissioners of the land office of lands for coarse salt works, and the commencement of erections thereon, previous to the fifteenth day of April, eighteen hundred and fifty-seven, shall be deemed an erection, within the provisions of this section, and shall entitle all erections made at any time on the said lands by the person or company making such first erections, or their assigns and successors, to the supply of brine in this section provided for. The commencement of erections for the manufacture of coarse salt on private lands, and the actual covering of at least one acre thereof, or the actual expenditure in the purchase of materials or other expenditures in and about such lands for the like purpose, sufficient to cover one acre, previous to the first day of January eighteen hundred and fifty-seven, shall be deemed an erection within the provisions of this act, then in existence, upon such lands, to the extent of twenty acres, or so much thereof as shall be covered with such erections by the first day of January, 1862. But the superintendent shall not be required to furnish water for erections on private lands unless a description of such lands shall be filed in the office of the superintendent, and the location shall be approved by him.

Thus amended by Laws of 1860, ch. 270.

Salt works
to be erect-
ed.

§ 42. Any individual or company having erected, or who may erect coarse salt works, on their own lands or lands belonging to the people of this state, in the vicinity of the "North Side Out" canal, in the first ward of the city of Syracuse, but which lands are not bounded by said "side cut" on either side, may have the right to take any of the lands belonging to the people of this state, not otherwise occupied, on the east side of said canal, equal in size to one fine salt lot, for building their salt store-houses for storing and packing coarse salt. And on giving to the superintendent of the salt springs notice thereof, in writing, that they have located such lot for said purpose, said superintendent shall give to such individual or company requiring the site for such store-house,

a lease thereof for the use aforesaid; and the superintendent shall lay out into suitable size for fine salt blocks, all other lands belonging to the said people, lying on the east side of said "side cut," and lease the same to be used for fine salt manufactories, in the manner provided by law.

§ 43. The lands bordering on the west side of said "north side cut," as extended under the act of the fourth of April, eighteen hundred and fifty-six, for two hundred feet in depth, which have been set apart for the use of coarse salt works, are hereby set apart for the use of the fine salt works by the lessees of said lands, or their assigns, except so much thereof as may be necessary for the purpose of building store-houses for the said coarse salt works, by the lessees of said lands; but in case the said lessees, or their assigns, shall not use said lands so set apart for fine salt works, within three years after the completion of the "north side cut" canal extension, as provided in the act above mentioned, then the superintendent may lease the same in the same manner as other fine salt lots are leased by him.

Lands on
west side of
north side
cut.

§ 44. It shall be the duty of the superintendent to lease for the term of thirty years, from and after the twentieth day of June, eighteen hundred and fifty-nine, to the present lessees, their assigns or legal representatives, the several lots called salt manufacturing lots, or parts of lots, on the Onondaga salt springs reservation, the fee of which is now owned by the state, and which have been and may hereafter be occupied for the purpose of manufacturing fine salt, subject to the same regulations and restrictions as now are or may hereafter be imposed by law; but no lease given under this act shall be construed or operate in such manner as to affect the validity of any mortgage or other security held by any person upon the property or estate thus leased. No improvements on the salt manufacturing lots, except the salt manufactories and their necessary appendages, shall be paid for by the state, if any lease hereby authorized shall not be renewed at the expiration of thirty years, or if before the expiration of said term, the state shall provide by law for vacating such lease; the provisions of this section as to leasing salt lots shall not apply to the salt lots on blocks number twenty-one and twenty-four, lying between Willow street and Bridge street, on the Oswego canal, in the fourth ward of the city of Syracuse.

Superin-
tendent to
lease cer-
tain lots.

§ 45. All leases of lots to be given hereafter for the manufacture of fine salt, shall be signed, sealed and acknowledged by said superintendent and lessee, before any officer authorized to take the acknowledgment of deeds, and said leases shall be recorded in the office of the clerk of Onondaga county, in a book to be provided by him for that purpose, in the same manner as deeds or conveyances of real estate are now recorded; and all legal provisions or enactments regulating the execution, acknowledgment and recording of deeds shall apply to such lease; and the record or a certified copy thereof, shall

Lessee.

PART I.

be evidence in all courts and places, and the recording of leases in the superintendent's office is hereby discontinued. All erections for the manufacture of salt shall be deemed real and not personal estate, and all deeds, mortgages, and conveyances thereof, hereafter made, shall be recorded accordingly in the county clerk's office; but this provision shall not affect any lien or mortgage now existing, or any right of the people of this state in lands covered by such erections.

Earthwork,
&c.

§ 46. Whenever the construction of any earthwork shall be undertaken by the superintendent of the Onondaga salt springs, that shall require the services of an engineer, said superintendent may make application to the canal commissioner in charge of the Oswego and Erie canal on said reservation, for the services of such engineer; and if, in the said commissioner's judgment, the interests of the state will be promoted by the employment of such engineer, said commissioner may direct the resident engineer, on either the Oswego or Erie canal, by an order, in writing, to assume the charge of such work, under the direction of the superintendent, and to make surveys, maps, profiles, estimates and measurements thereof, in the same manner as if such work was a part of the public improvements of this state.

Brine,
when not to
be furnish-
ed.

§ 47. The superintendent shall not furnish brine to any erection for the manufacture of fine salt, or for the manufacture of coarse salt, other than such as is authorized by the forty-first section of this act, which may be hereafter erected, either upon vacant lands or by doubling the blocks on lots now used and occupied for manufacturing purposes, until the quantity of brine raised and distributed by the state shall be sufficient for fully supplying all the existing works through the manufacturing season, without classifying the same for any part of the time.

Duty of
inspectors.

§ 48. It shall be the duty of the inspectors, in their respective districts, to examine, daily, all kettles used in the manufacture of fine salt, and if any such shall be damaged or defective in any respect, so as to be unsuitable for the manufacture of good salt, to require their removal; and unless such condemned kettles shall be removed upon his order, the superintendent shall have power to withhold the brine from such manufactory until such order shall be complied with.

Leases of
certain lots.

§ 49. At any time after the expiration of the existing leases for fine salt manufacturing lots, lying and being on blocks number twenty-one and twenty-four, between Willow street and Bridge street, on the Oswego canal, in the fourth ward of the city of Syracuse, to wit: after the twentieth day of June, eighteen hundred and fifty-nine, the commissioners of the land office (if in their judgment the public interest and the interests of the city of Syracuse shall thereby be promoted) are authorized and required to sell and dispose of the same, in the manner hereinafter provided.

§ 50. The commissioners of the land office, before they proceed to dispose of the lands described in the foregoing section, shall cause a map to be made of the same, subdividing the said blocks (twenty-one and twenty-four) into lots, corresponding to those severally occupied and used for the manufacture of salt, the possession of which is held by the occupants thereof, under leases made and executed by the superintendent of the Onondaga salt springs; after which, the said commissioners of the land office shall appoint three discreet persons, whose duty it shall be to appraise the value of said several lots, separately from the erections thereon, and mark the prices at which they shall value them respectively, on the map so provided. They shall also appraise separately the value of all erections which are located on said lots, and belonging to the occupants or lessees thereof, and likewise mark the appraised value thereof on the said map, upon the respective lots designated upon the same. After which the said appraisers shall return the said map, accompanied with a written report of their appraisement, verified by their oaths, to the office of the state engineer and surveyor at Albany; whereupon the state engineer and surveyor shall cause a written notice to be served upon each of the respective occupants of said lots, of the completion of such appraisal and the amount thereof.

§ 51. The state engineer and surveyor shall, after giving legal notice of the same, dispose of the said lots at auction, to the highest bidder, but not at a less price than the appraised value of the same; but the purchaser, before he shall be entitled to the possession of the lot which he shall have so purchased, shall also pay to the person or parties entitled thereto, or to the state treasurer for the benefit of the parties so entitled, the appraised value of their erections, as determined by the appraisal hereinbefore provided for. And after the expiration of one year from the sale of said lots, or any of them, no brine shall be furnished from the state wells or reservoirs for the manufacture of salt on the lot or lots so disposed of.

State engi-
neer and
surveyor.

§ 52. The sale of the lots provided for in the foregoing sections of this act shall not be made by the commissioners of the land office or the state engineer and surveyor, unless it shall be apparent to them, after the appraisals provided for are completed, that the moneys which will be derived from such sale by the state, will be more than sufficient to purchase an equal quantity of other lands, alike convenient for the manufacture of salt, and the moneys received by the state from such sale, or so much thereof as may be necessary to purchase an equal quantity of land, shall be invested by the commissioners of the land office in other lands for the manufacture of salt, in accordance with the provisions of the constitution of this state.

Sale of lots.

§ 53. The superintendent of the Onondaga salt springs is

Leases to
be made.

PART I.

authorized and required, after the expiration of the existing leases, to lease to the present lessees, their assigns or legal representatives, the several salt lots lying between Willow street and Bridge street, aforesaid, for a term of from three to five years, at his discretion, and in like manner, from time to time, at the expiration of the same, until the sale herein provided for shall be had, subject to the same regulations as now are or may hereafter be prescribed by law; but such leases shall not affect the validity of any mortgage or other security held by any person upon the lot thus leased, or the erections thereon. And after the sale of the aforesaid salt lots, if any purchaser of the same shall remove any salt manufactory thereon, to some other convenient locality for the manufacture of salt, the superintendent of the Onondaga salt springs shall furnish brine to the same, in the same manner that he would be required to do if the manufactories had remained on the lots on which they are now located, and the existing leases of the same had been continued or renewed.

Sale of certain lots.

§ 54. The sale herein authorized, of the salt manufacturing lots aforesaid, lying between Willow and Bridge streets, or any of them, shall only be made so as to take effect, and possession thereof be given to the purchaser at the expiration of the term for which the same may have been leased, at any time hereafter; unless the lessee of any of the lots aforesaid shall waive his rights under this section, and by his consent in writing, filed with the commissioner of the land office, shall authorize them to proceed to such sale immediately.

Lands, when not actually occupied.

§ 55. Whenever any of the lands granted by the commissioners of the land office for the manufacture of coarse salt shall not be actually occupied for that purpose by the commencement of erections thereon, within two years from the date of such grant, the superintendent may lease the same from year to year, and until the same shall be wanted for actual occupancy, to any person who will pay the largest rent therefor.

Leases, limitations of.

§ 56. The leases which may be given by the superintendent to the owners of fine salt works which may be hereafter erected, shall contain the same limitations and restrictions as are embraced in the leases given under the forty-fourth section of this act, but such leases shall only convey to the lessees respectively a right to the use of the surplus water, in the order of the erection of their works, as hereinbefore provided.

Powers of superintendent.

§ 57. The superintendent may enter upon and take possession of any well for supplying brine belonging to any individual or association, and appropriate the same for the use of the state, paying the reasonable value therefor as the same may be agreed upon between the parties, but not to exceed its original cost, or in case of the inability of the parties to agree upon such value, then such sum not to exceed the cost aforesaid, which may be awarded by the commissioners to be ap-

pointed for that purpose as provided by section thirty-one of this act.

§ 58. Any person or association engaged in the manufacture of salt, who shall provide an earth reservoir for the storage of salt water, shall be permitted to have the same filled by the superintendent, at any time when there may be a surplus not required for immediate distribution, and shall be allowed to use the same in their works in addition to the ordinary supply to which they may be entitled under the forty-third section of this act.

Rights of persons engaged in manufacture of salt.

§ 59. The superintendent may establish, and from time to time alter the boundaries of the inspection districts, so as to allow of the inspection of salt at the offices most convenient to the officers in charge and to the owners of the salt works.

Boundaries of inspection districts.

ARTICLE IV.

REGULATIONS AND PENALTIES CONCERNING THE USE OF THE SALT WATER AND THE MANUFACTURE OF SALT.

§ 60. No individual or association shall occupy any lands with their erections for manufacturing purposes, which, in the opinion of the superintendent, shall interfere with the free and convenient use by the state of the grounds adjacent to the pump-houses, reservoirs and other public works, or which shall obstruct access to the same, or the lines of aqueducts for the distribution of brine.

Individual associations not to interfere with state property.

§ 61. It shall not be lawful for the superintendent to deliver, or suffer to be delivered, any brine to the fine salt manufacturers, during the months of December, January, February or March.

Brine not to be delivered at certain times.

§ 62. If any person shall willfully burn or destroy any salt manufactory, or the buildings appurtenant thereto, or any part thereof, or shall willfully burn or destroy any of the buildings, reservoirs, pumps, conductors, or water conduits, belonging to the state, used and occupied in the raising of salt water for the use of the manufacturers of salt, or shall willfully injure the same, with the intention to prevent or retard the pumping, raising or distributing of salt water, for the use of the manufacturers, every such person shall be adjudged guilty of felony, and on conviction thereof, shall be sentenced to imprisonment in the state prison, for a term not exceeding five years.

Penalty for destruction of property.

§ 63. No manufacturer of salt or other person shall be allowed to put any article or ingredient into the salt water, either when in his cisterns or whilst evaporating, other than such as shall, from time to time, be allowed and approved of by the superintendent in the general rules and regulations which he shall adopt in relation thereto; and every person offending against any such rule or regulation shall, for every such offense, forfeit the sum of fifty dollars.

No ingredient to be put in the water, &c.

§ 64. Each manufacturer shall keep one good bittern pan, for each kettle or pan which he shall employ in the manufac-

Bittern pan.

PART I.

turing of salt, for the purpose of removing the feculent matter and other foreign substances held in solution in the brine during the process of making salt.

Using pans.

§ 65. It shall be the duty of the superintendent in the general rules and regulations which he shall adopt, to regulate the manner of using such pans, and of removing the impurities contained in the salt water, during the process of manufacturing the same into salt, and the manner of cleansing the kettles and pans.

Refusal to comply with rules.

§ 66. If any manufacturer of salt, salt boiler, salt packer, or other persons employed in or having charge of a salt block or salt manufactory, shall refuse to comply with the provisions of law or any of the rules and regulations adopted by the superintendent, published in accordance with the provisions of this act, on such refusal or non-compliance, it shall be the duty of the superintendent to stop all communication between the salt block or salt manufactory, and the state reservoir, so that no salt water shall come to such block or manufactory where such offense shall be committed, and it shall remain stopped until the provisions of this act are complied with.

Examinations by superintendent or deputy.

§ 67. It shall be the duty of the superintendent or his deputy, in his daily examinations, to examine particularly as to any leaks or waste of salt water from the cisterns attached to the several manufactories, or from the logs or conduits leading the water to the same; and as to any leak or waste of salt water, either by negligence or design, whether the same be in the cisterns, logs or conduits, or in the use of water in the manufactory, or in letting the same into the cisterns, or in any other manner; and to order the owner or other person occupying such manufactory, or any of his agents and servants who may be present, forthwith to stop such leak or waste.

Orders to be complied with.

§ 68. In case such order shall not be complied with as soon as may be practicable, the superintendent or deputy shall stop all communication between such manufactory and the logs and conduits leading to the state reservoirs, so that no more salt water shall come to such manufactory for any period not to exceed thirty days, at the discretion of the superintendent.

Communication not to be opened unless by consent.

§ 69. Every manufacturer or other person who shall open the communication between any manufactory or salt work, and the logs or conduits leading to or connecting with the state reservoirs, without the consent of the superintendent or of one of his deputies, or shall aid, assist, counsel, or advise in opening the same, without such consent, shall forfeit the sum of one hundred dollars.

Unauthorized communication.

§ 70. If at any time, any unauthorized communication shall be detected, by which the proprietors of any coarse or fine salt works shall be found to receive or obtain the salt water from the state reservoirs or aqueducts, surreptitiously, or in greater proportion than the superintendent shall deem

proper to furnish, the owners of such salt works shall forfeit and pay on the demand of the superintendent, the sum of one hundred dollars for each offense, and in default of payment shall be deprived of their supplies of water, under his direction, until such demand shall be complied with.

§ 71. Each manufacturer of fine salt shall have two cisterns or reservoirs attached to and adjoining his manufactory. Such cisterns or reservoirs shall be well made, and, as near as may be, free from leaks; and each of them shall be of sufficient capacity to contain as much salt water as can be boiled or evaporated in such manufactory, from the kettles or pans set therein, in two days.

Two
cisterns to
each factory

§ 72. No manufacturer of fine salt, who shall neglect to provide such reservoirs or cisterns, or who shall neglect to keep the same in good repair, so as to save the water from undue or unnecessary waste, shall be entitled or permitted to receive any salt water from the state reservoirs.

Neglect to
provide
cisterns.

§ 73. If any manufacturer of salt shall be found habitually neglecting any of the rules and regulations prescribed by the superintendent, or by law; or shall be in the habit of making bad salt; or if the quantity of salt inspected from his manufactory shall be found materially less than is usually produced from a manufactory of the same capacity of kettles, for the time it was actually in operation; it shall be the duty of the superintendent to suspend the right of such person to carry on such manufactory, for such length of time as he may deem proper, not exceeding three months at any one time.

Habitual
neglect to
comply
with rules.

§ 74. If any boiler, packer, or other laborer, employed by any manufacturer, shall neglect or refuse to obey the directions that may be given him by the superintendent, or any of his deputies, in and about any salt works or manufactory, in respect to the manufacture, packing, or care of the salt so produced by such manufacturer, and to be offered for inspection, it shall be the duty of the superintendent to require the discharge of such offender from his employment, and such person so discharged shall not be again employed by any person in the manufacture of salt, without the consent of the superintendent.

Boiler,
neglect, &c.

§ 75. It shall be the duty of every manufacturer to keep all his buildings, cisterns and appurtenances for the manufacture of salt in a state of thorough repair, so that the salt manufactured by him shall not suffer damage, or be impaired in quality after the same shall have been deposited in the bins or store-houses; and if any manufacturer shall neglect or refuse, upon the requisition of the superintendent, to place his works in such a state of repair, or to put them in a proper condition, for the manufacture and preservation of good salt, he shall forfeit his right to the use of the salt water, and the superintendent may disconnect the communications between the state aqueducts and his cisterns, until such manufacturer shall comply with the requisitions of the superintendent.

Buildings
to be kept
in repair.

PART I.

ARTICLE V.

REGULATIONS AND PENALTIES CONCERNING THE INSPECTION, PACKING AND REMOVAL OF SALT, AND THE PAYMENT OF DUTIES THEREON.

Superintendent to superintend the manufacture and inspection of salt.

§ 76. It shall be the duty of the superintendent and his deputies, charged with the inspection of salt, carefully and constantly to superintend the manufacture of the salt carried on in the several fine and coarse salt manufactories, to examine and inspect the salt made therein, in the various stages of its production, in kettles and vats, and in the bins and store-houses; and when inferior or impure salt is made, to require that the same shall not be mixed with salt that is suitable for passing inspection, but shall be separated therefrom, and either destroyed or returned to the cisterns to be dissolved, or otherwise deposited in some proper place to be disposed of as salt of second quality. And no salt shall be allowed to be packed and branded that shall not be clean and pure, and of the best quality, in all respects.

Inspection.

§ 77. Every person desiring to have salt inspected, shall apply to the inspector, in the district where the same shall be, who shall thereupon actually examine the salt so offered for inspection, in a bag, barrel or other vessel in which the same may then be.

Ibid.

§ 78. To facilitate such examination, it shall be the duty of the person offering the salt for inspection, to unhead or bore the barrel, or to open the bag or other vessel in which the salt is contained, as may be directed by the inspector, so as to expose the salt to his touch, view and examination.

Ibid.

§ 79. The inspector shall not pass any salt as good, unless he shall find it to be well made, free from dirt, filth and stones, and from admixtures of lime, or of ashes of wood, and of any other substance which is injurious to salt, fully drained from pickle, the bitters properly extracted therefrom, and manufactured as directed by this act, and by the rules and regulations of the superintendent.

Ibid.

§ 80. The person offering the same for inspection, shall in all cases provide the necessary strength to lift the salt, while the inspector weighs or measures it.

Duplicate inspection bills.

§ 81. Whenever the inspector shall have ascertained the quantity of salt in any parcel offered for inspection, and shall be satisfied that it is of such quality that it ought to pass inspection, he shall deliver duplicate inspection bills thereof, dated and signed by him, to the person applying for the inspection.

Names of persons to be in bills.

§ 82. In such bills of inspection there shall be stated the names of the persons at whose instance the inspection is had, and of the manufacturer; the number of bushels and pounds of salt contained in the parcel; and the number of bags, barrels or other vessels in which it shall be contained; together with a certificate of the inspector, stating that he has inspected the salt specified in such bills.

§ 83. The person applying for inspection shall thereupon repair to the receiver's office in the district where the salt is inspected, and deliver to the receiver or person keeping such office, such duplicate inspection bills, and pay the duties on the salt mentioned therein.

§ 84. It shall be the duty of the receiver, thereupon :

Receiver,
duty of.

1. To mark such bills with numbers, in the order in which they are presented, placing the same number upon each duplicate bill of the same parcel ; which number shall be commenced anew with the commencement of every month.

2. To enter upon his books an account of the parcels of salt, in which he shall state the number of the parcel ; the name of the person at whose instance the same shall have been inspected, and of the manufacturer ; the number of bushels and pounds of salt in the parcel ; the number of bags, barrels or other vessels in which it is contained ; the amount of duties thereon, and the day when the same are paid ; and

3. To sign a receipt at the foot of each duplicate inspection bill, and to deliver the same to the person paying the duties.

§ 85. Such person shall forthwith deliver one of the bills to the inspector by whom the salt was inspected, and retain the other as evidence of the payment of the duties thereon. The bills so received by the inspector shall be entered in a book to be kept by him, in the manner above provided.

Bills to be
delivered to
inspector.

§ 86. Such inspector, upon receiving the inspection bill so receipted, shall thereupon brand, or mark with durable paint, the barrel or cask containing the salt so inspected, with the surname at length, and the first letter of his christian name, with the addition of the word "inspector," in letters of at least one inch in length ; and shall mark upon the head of the barrel or cask, with durable paint, the number of pounds of salt contained in such barrel or cask.

Duty of
inspector
on receipt
of bills.

§ 87. Until one of the inspection bills so receipted shall have been returned to the superintendent, and the salt, when in cask headed up, shall have been so marked or branded, the inspection shall not be deemed complete, nor the payment of the duties consummated.

When in-
spection
complete.

§ 88. If the said salt shall be put up in barrels, it shall not be marked unless the barrels are thoroughly seasoned, stout, and well made, with a sufficient number of good strong hoops, to be well nailed and secured, not burned or colored on the inside, or dirty on the outside, nor without having the holes made for inspection, or the knot holes, if any there should be, well and securely plugged up.

Salt in
barrels.

§ 89. If the said salt shall prove upon examination not to be thoroughly drained, or if, when the barrels are standing on end, water shall exude therefrom, such barrels shall not be branded by the inspector, but the salt therein shall forthwith be emptied back into the bins, where it shall remain for a further period of fourteen days before it shall be lawful again to pack the same.

Salt not
thoroughly
drained.

PART I. a
Barrels to
be inspect-
ed.

§ 90. It shall be the duty of the superintendent to cause all salt barrels to be inspected before the same are used for packing salt therein, under such rules and regulations as shall from time to time be adopted and published by him, and all salt shall be rejected when offered for inspection in barrels not inspected, or in inspected barrels not properly secured after the salt is packed therein, so as to preserve the salt from waste or injury.

Brand to be
provided.

§ 91. The superintendent shall provide some suitable brand, with which all inspected barrels shall be branded or marked, and any person who shall falsely or fraudulently make or counterfeit, or cause to be made or counterfeited, or knowingly aid and assist the fraudulent making or counterfeiting the said mark or brand on any barrel, shall be liable to the same forfeitures, liabilities and penalties as are by law provided for the false or fraudulent making or counterfeiting the mark or brand of the superintendent of salt.

Inferior
salt.

§ 92. Salt of an inferior quality, dirty, damaged or condemned, may be sold loose or in bulk by the manufacturer thereof at the works, the inspector designating the quantity by weight in the inspection bill, as in ordinary cases, and distinguishing the same as "second quality," and the person having the same inspected paying the duty thereon; but such inferior salt shall not be packed in a manner calculated to deceive an innocent purchaser, as to its real quality, and if packed in barrels in the ordinary manner the same shall be branded in plain letters "second quality."

Penalty for
certain
offenses.

§ 93. Every person who shall either:

1st. Falsely and fraudulently make or counterfeit, or cause to be made or counterfeited, or knowingly aid and assist the fraudulent making or counterfeiting of the mark or brand of any superintendent, on any barrel, cask, sack or box containing salt; or,

2nd. Falsely and fraudulently make, alter or counterfeit, or knowingly aid and assist in the false and fraudulent making, altering or counterfeiting of any inspection bill, or any receipt of duties thereon, with intent to defraud the people of this state:

Shall be deemed guilty of felony, and on conviction thereof, shall be imprisoned in the state prison for a term not less than three nor more than six years.

No inspec-
tion after
sundown.

§ 94. No superintendent or inspector shall inspect salt after sundown, or before sunrise; and no salt manufacturer shall retail or deliver any uninspected salt after sundown, or before sunrise; and any person offending against any of the provisions of this section, shall forfeit the sum of twenty-five dollars.

When to be
packed.

§ 95. Salt shall not be packed in casks, barrels, sacks or other vessels, nor shall it be taken from the salt works in bulk or otherwise, until it has remained in the bin or store-house at least fourteen days.

§ 96. Nor shall any manufacturer or other person pack, or cause to be packed, after the said fourteen days shall have expired, in barrels, casks or boxes, any salt until an inspector shall have determined, upon actual examination, that the same is sufficiently drained of pickle and otherwise fit for inspection.

CHAP. IX.
Not to pack
until in-
spection,
&c.

§ 97. If any manufacturer, or other person, shall pack any salt in barrels, casks or boxes, before it shall have lain in the bin or store-house the said term of fourteen days, and before the superintendent shall have determined that it is fit for inspection, he shall forfeit the sum of twenty-five cents for every bushel of salt so packed.

Penalty for
disregard-
ing, &c.

§ 98. Barrels, sacks, or other packages in which salt shall have been packed and inspected, shall not be again used for the packing of salt therein, until the marks or brands made by the superintendent shall be first effaced, and if any person shall pack or cause to be packed, or shall aid or assist in the packing of any uninspected salt, in any such barrel, sack or package, without first effacing such marks or brands, he shall forfeit, for every bushel of salt so packed, the sum of five dollars.

Brand on
old barrels
to be erased

§ 99. No salt shall be removed from the place where the same shall have been manufactured, until it shall have been regularly inspected, without the consent of the superintendent, unless it be to the superintendent's office for the purpose of being inspected, under a penalty of one dollar for every bushel of salt so removed, to be recovered with costs of suit against the person or persons so removing said salt or causing the removal thereof.

Inspected.

So amended by Laws of 1860, ch. 270.

§ 100. It shall be the duty of every manufacturer to brand or mark, with durable paint, every barrel or other package of salt manufactured by him, with the surname at full length of the proprietor or owner of the manufactory at which the same shall have been made, and the initial letter of his christian name, and if the same shall have been manufactured for a company or association of individuals, he shall mark or brand in like manner, upon every such barrel or other package, the name of the firm by which the company is usually called.

Surname of
manufac-
turer.

§ 101. No inspector shall inspect or pass any barrel or other package of salt, which shall not be marked or branded in the manner prescribed in the last section. It shall be the duty of the manufacturer to brand the name of the district in which his block of kettles is located, upon every barrel or other package of salt which he may require to be inspected; and the superintendent shall not affix his brand to any barrel or other package of salt which shall not have been so branded by the manufacturer before offering the same for inspection.

When not
to be in-
spected.

§ 102. Every person who shall forge or counterfeit the name, so required to be put on by the manufacturer, or shall

Penalty for
forging
brand.

PART I.

cause or procure to be put on any barrel or other package in which salt shall be packed, the name of any person other than that which ought to be put thereon shall, for every such offense, forfeit the sum of twenty-five dollars, and shall also be liable for all damages to the party aggrieved.

Salt found in any of the fourth senatorial district.

§ 103. In case any barrels, casks or sacks of fine salt, of the appearance and quality of salt usually manufactured in that district of country which, by the act entitled "An act respecting the four great senatorial districts of this state," passed April seventeenth, eighteen hundred and fifteen, was denominated the "western district," shall be found in any of the counties included in that district not marked or branded in the manner hereinbefore directed, it shall be the duty of the superintendent, or any of his deputies, to seize all such salt, and to sell the same for the use of the people of this state, in the manner directed in the one hundred and sixth section of this act, unless the owner of said salt, or the person having the same in possession, shall prove to the satisfaction of the person seizing the same that the duties thereon have been actually paid, or that such salt was not subject to duty.

Attempt to remove from reservation, store-house &c.

§ 104. Every person who shall remove, or attempt to remove, from the reservation, or from any salt manufactory, store-house or other place of deposit, any salt, before it shall have been inspected, and the duties thereon paid, with intent to evade the inspection thereof, or the payment of the duties thereon, shall forfeit such salt, together with the bag, barrel or other vessel in which it shall be contained.

12 W., 396.

Forfeitt.

§ 105. Every such person shall also forfeit five dollars for every bushel of salt so removed or attempted to be removed; and the boat, vessel, cart, wagon, sled or other vehicle in or by which the same shall be removed or attempted to be removed, together with all the apparel, tackle and team thereto belonging, shall be taken to be the property of such person, and be liable to the payment of such penalty.

Persons who may execute process.

§ 106. The superintendent and his deputies, and every person by him for that purpose specially deputed, and every person empowered to execute any process issued for any penalty incurred under the last two sections, or either of those sections, shall severally have power to enter any boat, vessel, cart, wagon, sled or other vehicle in or by which such salt shall have been removed, or attempted to be removed, as above specified; to seize all such salt, with the bag, barrel or other vessel containing it, and to sell the same, for the use of the people of this state, at public auction, after giving six days' notice of the time and place of sale.

Seizure.

§ 107. The officer or person making such seizure may also seize such boat, vessel, cart, wagon, sled or other vehicle, together with the tackle, apparel and team thereto belonging, and may retain the same until the determination of any suit which may be brought for the penalty above imposed.

§ 108. When any property shall be seized by any officer under the provisions of this act, the owner of such property may obtain possession of the same by giving a bond, with sureties, to the superintendent of said salt springs, for the return of such property to such officer whenever judgment shall be obtained in the suit commenced to recover the forfeiture incurred, to secure which such seizure shall be made. The bond shall be in such form and with such sureties as the superintendent shall approve.

§ 109. If such bond shall not be given within twenty days after the seizure of the property, the superintendent may cause the property so seized, or so much thereof as he may consider necessary to satisfy any judgment which may be recovered for any penalty to secure which such seizure shall have been made, to be sold at public action, on giving such notice as sheriffs are required to give of the sale of personal property on execution, and retain the proceeds thereof to satisfy such judgment, and pay over the balance, if any there shall be, to any person legally entitled to the same, after such judgment shall have been obtained. Sale of same.

§ 110. Such officers or other persons shall also severally have power to enter every barn, store-house, inclosure or other place of deposit which they may suspect to contain salt so removed, or attempted to be removed, to seize all salt so removed, or attempted to be removed, that shall be found therein, with the bag, barrel or other vessel containing it, and to sell the same, in the manner and for the purposes provided in the one hundred and sixth section of this act. Power of officers.

§ 111. Whenever the superintendent shall suspect that any of the laws relating to the inspection of salt, or the payment of duties thereon, or otherwise, by which a penalty may have been incurred, for which it is his special duty to prosecute, has been violated, he may apply to any magistrate authorized to issue process in criminal cases, for process to bring before him any person suspected to be a material witness touching such alleged violation of law. When superintendent shall suspect, &c.

§ 112. Such magistrate shall have the like power to compel the witnesses to attend before him, and to give testimony, as he now possesses in cases brought before him upon complaints for such crimes as may be presented by indictment. Magistrate's power.

§ 113. Such witnesses shall be fully examined by the magistrate upon all proper points required by the superintendent touching such suspected violation of the law; his testimony shall be reduced to writing, subscribed by the witness and certified by the magistrate, and delivered to the superintendent. Witnesses to be examined.

§ 114. The magistrate shall have the like power to secure the attendance of the witnesses before any court for such penalty, when required by the superintendent, as he may now exercise in criminal cases. Attendance of witnesses.

§ 115. All penalties and forfeitures for smuggling salt, or Forfeiture, &c.

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for the transporting the same away so as to evade the payment of the duties thereon, when recovered, shall be one-half to the use of the people of this state and the other half to the person who shall give information of the offense.

Quantity of
salt in
barrels.

§ 116. The superintendent shall, by regulation, from time to time, specify the quantity of salt that shall be contained in barrels or other packages, which shall be offered for inspection, and it shall not be lawful for him to authorize the inspector's brand to be placed upon any package that does not correspond with the said regulation.

Regulations
&c.

§ 117. The superintendent shall, by regulation, require that all ground salt manufactured at said salt springs, and put up for the market in barrels, kegs, boxes, sacks or bags, shall be legibly marked on each barrel, keg, box, sack or bag, with the word "solar" or "boiled," as the fact may be; such marking to be done in letters of not less than half an inch in length.

Penalty for
putting up
inferior
quality.

§ 118. If it shall be found upon opening any barrels or sacks of Onondaga salt, duly branded according to law, that the salt contained therein is of a quality inferior to that required by law, the inspector or deputy who inspected the same shall be liable to a penalty of one dollar for each and every bushel so found inferior, to be sued for by any purchaser or purchasers injured thereby; and the maker and manufacturer whose name is branded on the barrel or painted on the sack shall also be liable to the same penalty for each and every bushel of such salt, to be sued for by the purchaser thereof.

Smuggling
salt.

§ 119. If any superintendent shall consent to, connive at, aid or abet the smuggling of salt, or the transportation of the same away, so as to evade the payment of duties thereon, or shall accept of any bribe or sum of money, or any gift or reward whatsoever, upon any express, or secret, or implied trust, or confidence that he shall connive at or consent to any evasion of the laws for the inspection of salt, the payment of the duties on salt or the distribution and delivery of salt water to any of the salt works, such superintendent shall forfeit his office and pay, to the use of the people of this state, the sum of two hundred and fifty dollars.

Officers'
guilty of
such
offenses.

§ 120. If any deputy or subordinate officer employed by the superintendent shall be guilty of the offenses specified in the last section, or either of them, such deputy or officer shall forfeit, to the use of the people of this state, the sum of two hundred and fifty dollars, for the recovery of which his bond shall be put in suit.

Damaged
salt.

§ 121. Whenever any salt has been inspected, and on which the duties have been paid, shall suffer any damage, so as either to reduce its weight or impair its quality, it shall be the duty of the superintendent to erase his inspection brand from the package containing the same, and to require that it shall be repacked, if reduced in weight only, or destroyed if im-

paired in quality, by returning it to the cisterns from which the owner or manufacturer thereof shall draw his supplies of brine for his works.

§ 122. Whenever any boat, laden in whole or in part with salt, shall be sunk in the canals or navigable waters of this state, so as to immerse or damage the same, or if any boat so laden shall be partly immersed or filled with water so as to damage any part of a cargo of salt on board, it shall not be lawful for the owner thereof, or any person in his name or behalf, to sell or otherwise dispose of the same in the original package; but such salt shall be emptied from the barrels or sacks containing it, and may be sold or disposed of after it shall have been exposed to public view, so that its quality and condition may be known. Salt so injured shall not be again packed in barrels bearing the inspector's brand, nor shall it be lawful to ship or transport the same beyond the bounds of this state.

Boat sunk
in canal.

§ 123. Any person offending against the provisions of the preceding section, shall forfeit and pay the sum of two hundred and fifty dollars for each and every offense, to be sued for and recovered in the courts of any county where it may be committed, in the same manner as any other penalty prescribed in this act.

Persons
offending
against last
section, &c.

§ 124. It shall not be lawful for any person to make any use of salt inspected and passed as of "second quality," for the purpose of mixing the same with other salt to be ground, or otherwise prepared for the packing of provisions, or as table salt; and any person offending against this section shall be liable to a penalty of one hundred dollars for each and every offense, to be sued for and collected in the same manner that any other penalty may be recovered under this law.

Second
quality.

§ 125. The superintendent shall cause such number of copies of this act to be printed in pamphlet form as he shall judge necessary, and shall cause them to be distributed among the several officers mentioned in this act, and the justices of the peace, constables and salt manufacturers on salt springs reservation.

Act to be
printed.

ARTICLE VI.

MISCELLANEOUS PROVISIONS APPLICABLE TO THE SALT SPRINGS.

§ 126. Whenever the term "reservation" occurs, in the second, third, fourth, fifth and sixth articles of this act, it shall be construed to extend to the whole of the original reservation for the use of the salt springs.

Reservation

§ 127. The term "manufacturer," whenever it shall occur in the above mentioned articles of this act, shall be construed to apply to every person having, at the time, the charge, direction or control of a manufactory, whether as owner or proprietor thereof, or by lease or hiring from such proprietor.

Manu-
facturer.

§ 128. The superintendent, and each of his deputies, and all persons employed in attendance upon any works for the

Exemp-
tions of
officers.

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manufacturing of coarse salt, shall be exempt from serving on juries, and from all military service, except in case of actual invasion or insurrection; and the commission or appointment in writing of any such officer or deputy, and the certificate of any owner or agent of any coarse salt manufactory, that any person is employed or engaged in attending upon such manufactory, shall be evidence of the facts stated therein.

Process may be served on Sunday.

§ 129. Any process by which the defendant's body is ordered to be taken in any action brought for any forfeiture of penalty under this title, may be issued and served on Sunday, and the defendant held in custody for trial until a reasonable time on the day following, if such process be issued by a justice of the peace; but if issued from any court of record, then the defendant shall be detained until he shall give bail, as in actions where defendants are held to bail.

Absence of civil officers.

§ 130. If no civil officer be present to serve any such process, the superintendent or either of his deputies shall be and they are hereby respectively authorized to serve such process, whether the same be issued and served on Sunday or any other day.

Bail may be taken.

§ 131. In case process issued out of any court of record shall be so served, bail shall be taken in the name of the sheriff in the same manner as though such process had been served by one of his deputies; but the sheriff shall not be responsible for the sufficiency of such bail, unless the defendant shall have been actually committed to jail, in which case he shall be responsible as in other cases.

Suit for recovery of penalty.

§ 132. If any suit for the recovery of any such penalty or forfeiture shall be prosecuted by warrant issued by any justice of the peace of the county of Onondaga, it shall not be lawful for such justice to adjourn the cause, on the prayer of the defendant, unless such defendant shall consent that the justice take the testimony, in writing, of any witness on the part of the plaintiff, then present, but actually residing without the county of Onondaga.

Testimony may be taken.

§ 133. If the defendant shall consent, the justice shall then proceed to take such testimony in the presence of the defendant, and reduce the same to writing, after which the cause may be adjourned, and the testimony so taken shall be received in evidence on the trial of the cause.

Judgment.

§ 134. Whenever a judgment shall be obtained before a justice of the peace against any person for any penalty or forfeiture under this act, and an execution be issued thereon, in case the officer having such execution shall not be able to levy the same on any property of the defendant, he shall commit the defendant to the jail of the county, where he shall remain confined within the walls of the jail, without bail, for the term of sixty days, unless he shall sooner pay or satisfy such execution; and every execution so issued shall contain a clause, ordering the defendant to be imprisoned, as above specified, unless property whereon to levy such execu-

tion shall be found by the officer to whom the same shall be directed.

§ 135. Whenever a judgment shall be recovered in a court of record for any penalty or forfeiture incurred under this act, and an execution thereon against property shall have been returned unsatisfied, in whole or in part, the defendant, upon any execution against his body, shall be imprisoned within the walls of the county jail, in the manner above provided, one day for each dollar in the penalty recovered in such cause, and then remaining unpaid, without bail unless he shall sooner satisfy such execution.

Judgment
in court
of record.

§ 136. If at any time any defendant so committed to jail shall be found without the walls of the jail before he is entitled to his discharge, it shall be deemed an escape, and the sheriff shall be liable for the amount due on the execution.

Defendant
not to be
out of jail.

ARTICLE VII.

OF THE SALT SPRINGS AT MONTEZUMA.

§ 137. The care and superintendence of the Montezuma salt springs shall be vested in a superintendent, who shall be appointed by the governor of this state, and shall hold office for three years.

Montezuma
springs.

§ 138. Said superintendent shall exercise all the authority and be charged with all the duties pertaining to the manufacture and inspection of salt at Montezuma, which are required to be performed by the superintendent of the Onondaga salt springs; and all the provisions contained in this act relating to the collection of duties and imposing penalties, by said superintendent, shall be in force, so far as the same shall be applicable.

Superin-
tendent's
authority.

§ 139. Any person hereafter appointed to the office of superintendent, shall, within thirty days after he shall receive notice of his appointment, execute a bond in the sum of five thousand dollars, with two sureties, to be approved by the comptroller, whose approbation shall be indorsed on said bond, conditioned that such person shall faithfully and honestly execute and perform the duties of said office, as the same is or may be hereafter prescribed by law.

Any person
hereinafter
appointed
superin-
tendent.

§ 140. All lands, wells, springs, buildings and machinery or property belonging to the people of this state at Montezuma, used in the manufacture or inspection of salt, or used in raising salt water, shall be in the charge and custody of said superintendent.

Property of
state at
Montezuma

§ 141. For his compensation, such superintendent shall receive for his own use all the duties on salt inspected by him, until the same shall exceed the sum of two hundred fifty dollars; and the excess over that sum shall be expended in repairing buildings, machinery, reservoirs, and other property under his charge belonging to the people of this state.

Compensa-
tion of
superin-
tendent.

§ 142. The superintendent, with the consent of the canal commissioners, may take water from the canal sufficient to

Water of
canal.

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carry a pump for the purpose of raising salt water to supply the works now or which may be hereafter erected; but the water so taken may be resumed by the canal commissioners, whenever, in their opinion, it may be necessary for the use of the canal.

Repairs.

§ 143. The superintendent shall keep in repair the erections belonging to the state, and used for supplying the salt works with brine; and may dig new wells and make such new erections as he may think needful and proper, paying for the same out of any surplus funds in his hands, arising from fines or duties on salt, or any appropriation which may be hereafter made for such purpose by the legislature, rendering an account annually to the comptroller of his receipts and expenditures.

§ 144. Title ten, chapter nine, part first of the Revised Statutes, entitled "Of the salt springs," and all acts and parts of acts in addition to or amendatory thereof, are hereby repealed.

CHAP. 259.

AN ACT relative to Applications to the Legislature for Grants of Escheated Lands.

PASSED April 25, 1829.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Notice of application.

§ 1. Every person hereafter applying to the legislature for a release of lands escheated to the state, shall give the like notice of such application in the county where such lands may be situate, and in the state paper, as is required by the third Title of the seventh Chapter of the First Part of the Revised Statutes.

CHAP. 116.

AN ACT respecting Escheated Lands.

PASSED April 12, 1831.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Lands held under written contract.

§ 1. Where lands have been or shall be escheated to the people of this state, and the person last seised was a citizen, or capable of taking and holding real estate, the commissioners of the land-office shall fulfil any contracts which may have been made by the person so seised, or by any person from whom his title is derived, in respect to the sale of any such lands, so far only as to convey the right and title of this state, pursuant to such contracts, without any covenants of war-

ranty or otherwise, and shall allow all payments which may have been made on such contracts.

2 H, 74.

§ 2. If any part of such escheated land shall have been occupied under a verbal agreement for the purchase thereof as aforesaid, and the occupants shall have made valuable improvements thereon, the same shall be deemed as valid and effectual within the provisions of this act, as if such agreement had been in writing. Under verbal agreements.

§ 3. In cases where the commissioners of the land-office shall be satisfied that the payments still due on any such contract, exceed the value of the land exclusive of improvements made by the purchaser, and in cases where tenants have occupied any part of such escheated lands, by the permission of the person last seised, or of any person from whom his title is derived, with a view to the purchase thereof, the said commissioners shall cause such land to be appraised, and shall sell the same to the person who may have made such contract, or to the tenant who shall have so occupied any part of such land, their representatives or assigns, for the appraised value of such land, exclusive of improvements, upon such person or tenant complying with the provisions of this act. Payments.

§ 4. Application for the benefits of the provisions of this act, shall be made by the persons entitled thereto, within one year after the land in respect to which such application shall be made, shall have been reported by the attorney-general, to the commissioners of the land-office, as having been recovered. Application when to be made.

§ 5. When the amount due on any contract shall have been ascertained, and when the appraised value of any land shall have been obtained as herein provided, the applicants for the benefit of this act, shall, within such time as the commissioners of the land-office shall direct, pay into the treasury of this state, twenty-five per cent of the amount due on any such contract, or of the appraised value of such land, as the case may be, and execute their penal obligations respectively, for the payment of the residue of such amount, or of such appraised value, to the people of this state, in six equal annual payments, with interest at the rate of six per cent. First payments.

§ 6. On such payment being made, and such obligation being delivered to the surveyor-general, he shall give to such purchaser a certificate similar to that required to be given by the third article of title fifth of the ninth chapter and first part of the Revised Statutes, to purchasers of unappropriated lands; which certificate shall confer on such purchaser, his representatives and assigns, the rights in the said article specified, subject to the limitations and conditions therein mentioned, in respect to the sale of unappropriated lands. Surveyor-general to give certificate of sale.

Ante, vol. 1, p. 202.

§ 7. The commissioners of the land-office may employ an agent to explore any lands supposed to be escheated, and to collect evidence in relation to such escheat; and the expenses incurred therein shall be paid out of the avails of escheated

PART I.

lands, upon being audited by the commissioners; but such expenses shall not exceed the sum of five hundred dollars in any one year; and any expenses already incurred in the employment of such agent, in relation to lands escheated by the death of John G. Leake, not exceeding three hundred dollars, shall be paid in like manner.

Costs. § 8. In case where lands escheated have been or shall be recovered in suits against tenants in possession of such lands, who would be entitled to the benefits of the provisions of this act, and such tenants shall not have contested the recovery by this state, they shall not be liable to pay the costs of such suits; but the costs and charges of the attorney-general therein, and also his costs and charges in conducting proceedings for the recovery of lands escheated against unknown owners or claimants, where such lands shall be actually recovered, for the payment of which no provision is made by law, shall be paid out of the avails of escheated lands, on the warrant of the comptroller.

CHAP. 300.

AN ACT concerning escheats.

PASSED April 29, 1833.

[This act repealed by Laws of 1845, ch. 115, § 14. Post, vol. 4, p. 303.]

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

**Application
by alien
heirs.**

§ 1. Where any lands have already escheated, or may hereafter escheat to the people of this state, in consequence of the death of the person seised without making any devise thereof, and leaving no heir capable of inheriting the same, it shall be lawful for any person who by the provisions of this act may receive a release as hereinafter provided, to apply to the commissioners of the land-office for a release of such interest in the land as the state may have acquired by such escheat.

**What to
be stated.**

§ 2. The applicant in such cases shall state in writing, first, the name of the person who died seised, and whether he was an alien or a citizen: second, whether the person who died seised left a widow or a child, or other relative, who, but for their alienism, would have been his heirs-at-law, and the names and places of residence of such widow, children or other relatives: third, the location, quantity and value of the lands escheated, with a convenient description of the same, and all such further things as shall be required by the commissioners of the land-office.

Proof.

§ 3. The applicant shall make satisfactory proof to the commissioners of the land-office, concerning all the matters aforesaid; which proof, so far as relates to the value of the land, shall consist of the affidavits of two persons, who shall

be either the supervisor, town clerk or assessors of the town in which the land shall be situated, stating that they have viewed the lands in question, and that the full value of the said lands, as they would appraise the same in payment of a just debt due from a solvent debtor does not exceed a certain sum, to be mentioned in such affidavit.

§ 4. Upon the execution of any release, pursuant to the first section of this act, the following proportional parts of the ascertained value of the lands released shall be paid by the grantee into the treasury of this state, for the use of the people thereof. First. If such grantee be the child, grandchild or widow of the person who died seised, one-twentieth part of such value. Second. If such grantee be the father, mother, brother or sister of the person who died seised, one-tenth part of such value. Third. If such grantee be the uncle, aunt, nephew, or niece of the person who died seised, one-fifth part of such value. Fourth. If such grantee be any other relative, or be not a relative, of the person who died seised, one-fourth part of such value. Fifth. In case such grantee, at the time the person died seised, shall have been, or at the time of the release shall be an alien, residing without the United States, the amount to be paid shall be twenty per centum greater than the proportions above mentioned respectively.

Amount to be paid into the treasury.

§ 5. The grantee in every such release shall take the land subject to the debts of the person who died seised, the payment of which debts may be enforced in the same manner as if the grantee had derived his title as heir-at-law; and if such grantee be an alien, residing without the United States, the said release shall be upon the condition that within ten years from the date thereof such grantee shall absolutely dispose of the property so released.

Lands to be subject to debts of deceased.

§ 6. Such release, when made to an alien, shall confer on him the capacity of holding and aliening the lands released.

Effect of release.

§ 7. Such release shall not be evidence against third persons that the lands had escheated; but in proof of the escheat, the release shall operate as a conveyance, and have the like effect as though it had been made after office found, or after the land had been recovered by the people on the ground of the escheat.

It.

§ 8. The commissioners of the land-office, upon the conditions aforesaid, may, in their discretion, grant releases in all cases where the value of the land shall not exceed seven thousand dollars, and where the grantee shall be a citizen of the United States, or an alien residing within the United States.

In what cases commissioners may release

§ 9. Where any alien, not having been authorised by the laws of this state to hold real estate, shall have purchased and taken a conveyance, or shall hereafter purchase and take a conveyance of any lands from a person capable of aliening the same, it shall be lawful for such alien to apply to the commis-

Application by alien purchaser.

PART I.

sioners of the land-office for a release of all such interest in the land as the state may have by reason of his alienism.

What to be stated.

§ 10. The applicant in such cases shall state in writing, first, the name of the person from whom he purchased the estate, the time of the purchase, and how much he paid or contracted to pay for the same; second, the location, quantity and value of the land, with a convenient description of the same, and all such other matters as shall be required by the commissioners of the land-office.

Proof.

§ 11. The applicant shall make such proof in the premises as is prescribed by the third section of this act.

Amount to be paid.

§ 12. Upon the execution of any release, pursuant to the ninth section of this act, the following proportional parts of the ascertained value of the lands released shall be paid by the grantee into the treasury of this state, for the use of the people thereof. First. If such alien, previous to the execution of the release, shall have made and filed such deposition or affirmation as is mentioned in the second part of the Revised Statutes, chapter one, title one, section fifteenth, one-fortieth part of such value. Second. If such alien be a resident of the United States, and has not made such deposition or affirmation as aforesaid, but has taken such incipient measures as the laws of the United States require to enable him to obtain naturalization, one-thirtieth part of such value.

In what cases commissioners may release

§ 13. The commissioners of the land-office, upon the conditions aforesaid, may, in their discretion, grant releases under the ninth section of this act, coming within the two first subdivisions of the preceding section, and where the value of the land shall not exceed ten thousand dollars.

Effect of release.

§ 14. Such release shall confer on the alien the capacity of holding and aliening the lands released.

Defective titles.

§ 15. Where the title of any person to lands is or shall be defective, on the ground that he is obliged to deduce the same through an alien not authorised by law to hold and convey lands, it shall be lawful for him to apply to the commissioners of the land-office for a release of all such interest in the land as the state may have by reason of such alienism.

What to be stated.

§ 16. The applicant in such cases shall state, in writing, first, the name of the person from whom he purchased the estate, the time of the purchase, and how much he paid or contracted to pay for the same; second, the name and place of residence of the alien, through whom the title has passed, and in what manner the alien derived his title; third, the location, quantity and value of the land, with a convenient description of the same; and all such other matters as shall be required by the commissioners of the land-office.

Proof.

§ 17. The applicant shall make such proof in the premises as is prescribed by the third section of this act.

Amount to be paid.

§ 18. Upon the execution of any release, pursuant to the fifteenth section of this act, the following proportional parts of the ascertained value of the lands released shall be paid

by the grantee, into the treasury of this state for the use of the people thereof: first, if the supposed title of the alien was acquired by descent or devise, such part of the value as the alien would have been required to pay had he made application under the first section of this act; second, if the supposed title of the alien was acquired by purchase and conveyance, for a valuable consideration, such part of the value as the alien would have been required to pay had he made application under the ninth section of this act.

§ 19. The payments required by the preceding section may be reduced, not exceeding one-half, where it shall appear that the applicant paid the full value of the land, and where he shall prove, by his own affidavit or otherwise, to the satisfaction of the commissioners of the land-office, that he purchased in the full belief that his title would be perfect.

Amount
may be
reduced.

§ 20. The commissioners of the land-office, upon the conditions aforesaid, may, in their discretion, grant releases under the fifteenth section of this act, in all cases where the value of the land shall not exceed ten thousand dollars.

In what
cases com-
missioners
may release

§ 21. Such release shall operate to confirm the title of the person to whom it shall be given, in the same manner as though the alien had the capacity to transmit the same.

Operation
thereof.

§ 22. The commissioners of the land-office may, in their discretion, grant releases, in all cases, and without requiring the payments herein prescribed, where the lands shall not exceed, in value, the sum of three hundred dollars, and the applicant shall be in indigent circumstances.

Releases
without
payment.

§ 23. In all cases where the commissioners of the land-office are not authorised by this act to make releases, and in cases where they shall entertain doubts in relation to the persons who ought, upon equitable principles, to receive the releases which they are authorised to make; or where, from any other cause, they shall deem it expedient to do so, they shall report the application, with a statement of the facts and circumstances of the case, to the legislature for their direction in the premises.

Commis-
sioners to
report.

§ 24. Where the legislature upon any such report, or in any other case, shall direct a release of the interest of the state in escheated lands, such release shall be made on the terms and conditions prescribed by this act, unless it shall otherwise specially directed in the act authorising the release.

Terms of
release.

§ 25. All applications for the release of the interest of the state in lands by escheat, and all applications made to confirm purchases made by, and titles derived through aliens, shall be made, in the first instance, to the commissioners of the land-office; and, before any applicant shall be entitled to a release, he shall cause a notice of his application to be published for six weeks in the state paper, and in a newspaper published in the county where the lands shall be situated, or if no newspaper be published in such county, then in the next adjoining county.

Applica-
tions to
whom made

PART I.
Payments
when to be
made.

§ 26. The payments required by this act shall be made before the release shall be executed: or, if they amount to the sum of one hundred dollars, may, in the discretion of the commissioners of the land-office, be secured by mortgage on the premises released, payable within two years, with interest; and the grantee shall in all cases pay the expenses of the conveyances, and of proving and recording the same.

Allowance
to persons
giving in-
formation.

§ 27. Where any person shall give information, in writing, to the commissioners of the land-office or the attorney-general, of any escheated lands, and shall furnish such proofs as shall enable the people to recover the same, he shall be entitled to receive one-fourth part of all such moneys as the state may receive on account of such escheated lands, where the amount so received shall not exceed one thousand dollars; and where it shall exceed that sum, one-eighth part thereof, to be ascertained by the commissioners of the land-office, and paid out of the treasury. But the person informing shall not be entitled to compensation in any case where an application shall previously have been made for a release under this act, nor in the cases mentioned in the next following section.

Exceptions.

§ 28. Where any person has an immediate right to make application for a release under this act, no person giving information as aforesaid shall be entitled to compensation, if such application for a release shall be made within ten months after the passing of this act; and where an escheat shall hereafter take place, no person giving information as aforesaid shall be entitled to compensation, if application for a release under this act shall be made within six months after the right of the people accrued, or within six months after the person entitled to make such application shall have arrived at full age.

When ap-
plication is
not made in
time.

§ 29. Where application shall not be made within the times above prescribed, the applicant, in addition to the sums required to be paid for a release, shall pay such sums as any person who may have given information as aforesaid shall be entitled to receive.

Suits not to
prevent ap-
plications.

§ 30. The commencement of suit for the recovery of any escheated lands shall not prevent an application for a release under this act, if made at any time before trial, but in such cases the applicant shall pay the costs that may have accrued.

Annual
report.

§ 31. The commissioners of the land-office shall report annually to the legislature, within the first twenty days of its session, a statement of all the releases granted under this act; the names of the persons to whom they were granted; the quantity and value of the lands released; and the moneys paid into the treasury, or secured to the people of this state, on account of such releases.

Act of 1832
repealed.

§ 32. The act, entitled "An act concerning escheats, and to derive a revenue therefrom," passed April 26, 1832, is hereby repealed.

CHAP. 37.

AN ACT to amend the act concerning escheats.

PASSED March 18, 1834.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The commissioners of the land-office may grant releases under the fifteenth section of the act entitled "An act concerning escheats," passed April 29, 1833, in all cases where the alien through whom the title has passed was a resident of the United States, although the alien may not have filed such deposition or taken such incipient measures as are mentioned in the twelfth section of said act.

3 N. Y., 299.

§ 2. Upon the execution of any release under the foregoing section, the commissioners shall require payment or security, pursuant to the directions of said act, of a sum not less than one fortieth part of the ascertained value of the lands released; subject however to the provisions of the nineteenth section of said act.

§ 3. In ascertaining the amount to be paid or secured on granting releases, under the first section of the act hereby amended, the commissioners may deduct from the ascertained value of the land, the debts which, under the fifth section of the act, would be a charge on the grantee of the lands released.

CHAPTER X.

Militia.

[The Militia Act of 1862 repealed in terms only five acts specifically and then "all other acts and parts of acts conflicting with this act."

To determine now how much of the Revised Statutes, and the numerous acts passed since then on the subject of the militia conflicts with this act, requires a power of adjudication that does not belong to an editor.

Therefore, it was that Chap. X of the Militia was printed in its place and the same rule would require the Editor, in this connection, to compile and print more than fifty acts that have been passed since the Revised Statutes were enacted. That would incumber his publication with a great deal of useless and obsolete matter.

Instead of doing so, he contents himself with giving the following list of acts that may or may not be in force on that subject:

Session Laws of 1828, chap. 19; of 1829, ch. 335; of 1830, ch. 335; of 1831, ch. 311; of 1834, ch. 304; of 1835, ch. 49, 153, 304; of 1836, ch. 66, 387; of 1837, ch. 56; of 1838, ch. 204; of 1839, ch. 361; of 1840, ch. 147, 230, 350; of 1842, ch. 64, 134, 166; of 1844, ch. 241, 247, 272, 286; of 1845, ch. 69; of 1846, ch. 65, 139, 208, 266, 270; of 1847, ch. 205, 290, 440, 494; of 1848, ch. 220, 287;

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of 1849, ch. 254, 307, 316, 412; of 1850, ch. 85; of 1851, ch. 166, 180, 241; of 1852, ch. 199, 204, 240, 385; of 1853, ch. 7, 371; of 1854, ch. 322; of 1855, ch. 228; of 1857, ch. 391; of 1861, ch. 277, 292; of 1862, ch. 421.]

CHAP. 477.

AN ACT to provide for the enrollment of the militia, the organization and discipline of the National Guard of the State of New York, and for the public defence.

PASSED April 23, 1862; by a two-third vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

OF THE PERSONS SUBJECT TO MILITARY DUTY.

Persons
subject to
military
duty.

§ 1. All able bodied, white male citizens, and persons of foreign birth who shall have declared on oath their intention to become citizens under and in pursuance of the laws thereof, between the ages of eighteen and forty-five years, residing in this state and not exempted by the laws of the United States, shall be subject to military duty, excepting:

Excep-
tions

1. All persons in the army or navy or volunteer forces of the United States, and all ministers of the gospel.

2. Persons who have been or hereafter shall be regularly and honorably discharged from the army or navy of the United States, in consequence of the performance of military duty, in pursuance of any law of this state, and such firemen as are now exempted by law.

3. Commissioned officers who shall have served as such in the militia of this state, or in any one of the United States, for the space of seven years; but no officer shall be so exempt unless by his resignation after such term of service duly accepted, or in some other lawful manner, he shall have been honorably discharged.

4. Every non-commissioned officer, musician and private, of every uniform company or troop raised or hereafter to be raised, who has or shall hereafter uniform himself according to the provisions of any law of this state, and who shall have performed service in such company or troop for the space of seven years from the time of his enrollment therein, shall be exempt from military duty, except in cases of war, insurrection or invasion.

As amended by Laws of 1863, ch. 425. Post, vol. 6, p. 152.
And Laws of 1865, ch. 612. Post, vol. 6, p. 542.

§ 2. If any member of such company or troop, who shall have been regularly uniformed and equipped, shall, upon his removal out of the beat of such company or troop, or upon the disbandment thereof, enlist into any other uniform company or troop, and uniform and equip himself therefor, and serve in the same, whenever the whole time of his service in such companies or troops, computed together, shall amount to seven years, he shall be exempt from military duty in like manner as if he had served for the whole period in the company or troop in which he was first enrolled.

§ 3. Idiots, lunatics, paupers, habitual drunkards and persons convicted of infamous crimes shall not be subject to military duty.

CHAP. X.
Time of
service how
computed.

OF THE ENROLLMENT OF PERSONS SUBJECT TO MILITARY DUTY.

§ 4. Under the direction and superintendence of the Commander-in-Chief, all persons liable to military duty within this state, who are not already members of the organized militia thereof, shall, immediately upon the passage of this act, and from time to time thereafter, as the Commander-in-Chief shall deem necessary, but as often as once in every two years, be enrolled by the captain or commandant of the company district within whose bounds such person shall reside, or if there be no such captain or commandant, then by an officer to be detailed by the commanding officer of the regiment in which such company district is situated, or to be appointed by the Commander-in-Chief. Such enrollment shall distinctly specify the names and residences of the persons enrolled, and shall also divide the same into two classes, the persons between the ages of eighteen and thirty years to constitute one class, and the persons between the ages of thirty and forty-five years to constitute the other class; four copies of such enrollment shall be prepared by the officer making the same, one of which, after the same shall have been corrected as hereinafter provided, shall be retained by him, another shall be filed in the office of the town or city clerk in which such company district is situated, if there be such office, another shall be filed in the office of the clerk of the county where such district is situated, and the fourth shall be filed in the Adjutant General's office; the officer making such enrollment may, with the approval of the Commander-in-Chief, appoint one or more of his non-commissioned officers or other proper persons, to assist in making said enrollment and copying said rolls; the persons making such enrollment shall be compensated at the rate of one dollar and fifty cents per day for every day necessarily spent in making and copying the same; the number of days to be certified by the commandant of the regiment, not to exceed ten, and the amount of such compensation to be paid by the Comptroller upon production of such certificate, together with the certificates of the town clerk, county clerk and Adjutant General that such rolls have

Enrollment

Rolls to be
filed.

Compensation.

PART I.

Time for
filing rolls.

been duly filed in their offices. Such rolls shall be so filed on or before the first day of July in each year in which such enrollment shall be made. The officer or person making such enrollment shall, at the time of making the same, serve upon each person enrolled a notice, by delivering the same to him personally, or by leaving it with some person of suitable age and discretion at his place of residence, that he is enrolled as liable to military duty, and that if he claims that he is for any reason exempt from military duty he must on or before the fifteenth day of August then next ensuing file a written statement of such exemption, verified by affidavit in the office of the town or city clerk, to be designated in said notice; blank notices for such purpose shall be provided to such enrolling officer by the adjutant general.

As amended by Laws of 1863, ch. 425, § 2. Post, vol. 6, p. 152.

Assessment
rolls and
poll lists
may be
examined.

§ 5. For the purpose of preparing such enrollment, the assessors in each city, village, town or ward of this state, shall allow captains or commandants of companies or other officers appointed for that purpose, as above provided, at all proper times to examine their assessment rolls and to take copies thereof, and the clerks of all towns and cities shall, in like manner, at all proper times, allow the said commandant or other officer to examine and copy the poll lists on file in their offices.

Tavern
keepers,
&c., to give
informa-
tion.

§ 6. All tavern keepers, keepers of boarding houses, persons having boarders in their families, and any master and mistress of any dwelling house shall, upon the application of any officer authorized to make such enrollment, give information of the names of all persons residing or lodging in such house liable to be enrolled, and all other proper information concerning such persons as such officer may demand.

Penalties
for refusal.

§ 7. If any person of whom information is required by any such officer, in order to enable him to comply with the provisions of this act, shall refuse to give such information, or shall give false information, he shall forfeit and pay ten dollars for each item of information demanded of him by any such officer and falsely stated, and the like sum for each individual name that may be refused, concealed or falsely stated; and every person who shall refuse to give his own name and proper information when applied to by any such officer, or shall give a false name or information, shall forfeit and pay a like sum; such penalties to be recovered in any court of competent jurisdiction, in the name of the people of the state of New York; and it is hereby made the duty of such officer to report the names of all persons who may incur any penalty in this section prescribed, to the commandant of the regimental district in which they reside.

Notice of
completion
of enroll-
ment.

§ 8. Whenever an enrollment shall be made, as provided in this act, the county clerk of each county shall cause to be published once a week, for four weeks previous to the first day of August, in a newspaper published in such county, a notice that such rolls have been completed and filed as aforesaid, which notice shall also specify that any person who claims that he is, for any reason, exempt from military duty, shall, on or before the fifteenth day of August then next ensuing, file a written statement of such exemption, verified by affidavit in the office of said town or city clerk, or of the county clerk if there be no such town or city clerk; and the publication of such notice shall be sufficient notice of such enrollment of all persons named therein; such roll shall be made in the form prescribed by the commander-in-chief, and the adjutant-general shall furnish to all commandants of companies suitable blanks and instructions therefor.

CHAP. X.

§ 9. Such commandant shall not include in said enrollment the names of any officers nor members of the uniformed militia of this state, nor of the officers or members of any fire company, and the foreman of every fire company in any city, village or town of this state shall, before the fifteenth day of May in each year, file in the office of the town or city clerk a list containing the names of all persons belonging to their respective companies, which list shall show the town or ward in which each member of such company resides.

Foreman of fire companies to file list of members.

§ 10. All persons claiming exemptions shall file a written statement of the same verified by affidavit in the office of the town or city clerk, or of the county clerk, in case there be no such town or city clerk, on or before the fifteenth day of August, in default of which such person shall lose the benefit of such exemption, except such as are especially exempt by act of congress.

Time and place of filing exemptions.

§ 11. The captain, commandant or other officer making such enrollment, shall thereupon, if such person be exempt, according to law, mark the word "exempt" opposite the name of each person presenting such exemption; if such exemption be permanent the name of such person shall not be included in any subsequent enrollment. If any person shall swear falsely in such affidavit, he shall be guilty of perjury.

Exempt persons not to be subsequently enrolled.

§ 12. The persons thus enrolled shall form the reserve militia of the State of New York; those between the ages of, eighteen and thirty years shall constitute the reserve of the first class, and those between the ages of thirty and forty-five years shall constitute the reserve of the second class.

The reserve militia.

§ 13. The reserve militia of the first and second classes, except such as shall volunteer or be drafted as members of the national guard, as hereinafter provided, shall assemble in their several company districts, armed and equipped as provided by law, for parade and inspection, on the first Monday in September in each year, at such hour and place as the captain or commandant shall designate in orders, to be posted in three public places in said company district for ten days, and shall be under the orders of the captain or commandant of such district; and such captain or commandant shall make a register of all such as shall attend at such parade armed and equipped as aforesaid, to which shall be annexed a list of delinquents, containing the names of all such persons as are on the said enrollment not marked "exempt" thereon, and who did not attend at such parade, and shall file a copy of the same on or before the first day of October next following the time of such parade, in the office of the adjutant-general and of the county clerk, and shall also file a list of such delinquents with the board of supervisors and with the county treasurer, on or before the said first day of October.

When to parade.

Register of attendance.

Delinquents.

Filing list of.

§ 14. All persons duly enrolled, as aforesaid, who shall neglect to attend said parade, shall be subject to a fine of one

Penalty for delinquency.

PART I.By whom
collected.

dollar, which shall be collected by the collector or receiver of taxes of the town or city in which the company district is situated; and the supervisors of the several counties, at their annual meetings, are authorized and directed to annex a list of the several delinquents, with the fines set opposite their respective names, to the assessment rolls of the several towns and wards, and the warrants for the collection of the same shall direct the collectors and receivers of taxes to collect the amount from every person appearing by the said assessment roll liable to pay the same, in the same manner as taxes are collected, the same to be paid to the county treasurer; and when the name of any person between the ages of eighteen and twenty-one years, shall appear on the said roll, liable to pay said fine, the said warrant shall direct the collector to collect the same of the father, master or guardian with whom such person shall reside, or out of any property such minor may have in the city, village, town or ward, and such collector shall proceed and execute such warrant; and no property now exempt from execution shall be exempt from the payment of such fines.

Duty of
county
treasurer.

§ 15. The county treasurer of each county shall, on or before the fifteenth day of March in each year, pay to the comptroller, upon his order, the sum of one dollar for each person named on said list of delinquents; and in case he shall not, on the presentation of such draft, have received all or any of the money directed by this act to be collected and paid to him, he is hereby authorized and directed to borrow an amount sufficient to pay said draft upon the credit of the county, and the sum borrowed shall be a county charge, to be assessed by the board of supervisors of said county, at the next annual meeting, upon the taxable property of said county, and collected as other county assessments shall be assessed and collected; and it shall be the duty of the county treasurers of the several counties, and the commanding officers of the several regiments, to report and certify under oath to the board of supervisors, at their annual meetings, the deficiencies arising from the non-collection of military fines within their respective counties and regimental districts.

Revised
Statutes
to apply.

§ 16. The provisions of article first, title three, chapter thirteen of part first of the Revised Statutes, shall apply to this act so far as the same are applicable.

Bonds of
collectors,
&c., to
apply.

§ 17. The bond required to be executed by the collector, receiver of taxes and county treasurer, shall apply to any moneys required to be collected for military purposes by this act.

Deficien-
cies to be
a county
charge.

§ 18. Any deficiency arising from the non-collection of said fines shall be a county charge, and shall be raised as aforesaid by the supervisors of said county by taxation, on the real and personal estates therein, in the manner now provided by law.

Penalties of
collectors,
&c., in the
case of
neglect.

§ 19. If any collector or receiver of taxes, county treasurer, town, county or city clerk, or supervisor, or any other civil or military officer, charged with any duty under the provision of this act, shall refuse or neglect to perform any of the duties required of him by this act, he shall forfeit and pay the sum of not less than twenty-five nor more than one hundred dol-

lars for each and every offence, to be recovered in the name of the people of the State of New York; and if any of such officers shall willfully neglect or refuse to perform such duties as are hereby required, he shall be deemed guilty of a misdemeanor, and it shall be the duty of the district attorney of any county within which such delinquent offender resides, upon the complaint of the commanding officer of the regiment, to prosecute the same. Any penalty incurred and paid or collected under this section, shall be paid into the treasury of the county, and belong to the military fund of such regiment.

Penalty to be paid into the county treasury.

OF THE GENERAL ORGANIZATION OF THE MILITIA, AND THE ORGANIZATION OF THE NATIONAL GUARD OF THE STATE OF NEW YORK.

Of Organization.

§ 20. The Commander-in-Chief of the militia of this state shall organize and arrange the same, and the districts therefor, into divisions, brigades, regiments, battalions, squadrons, troops, batteries and companies, and cause the same to be numbered as nearly in conformity to the laws of the United States as local circumstances and the public convenience may permit, and may alter, divide, annex or consolidate the same and the districts thereof, and dismiss supernumerary officers who were made such by an excess of officers of equal grade being thrown into any division, brigade, regimental or company district. The present divisions, brigades, regiments, battalions, troops, squadrons, batteries and companies, and the districts thereof, shall remain as now established by law, subject to the power of the Commander-in-Chief to alter, divide, annex or consolidate the same as above set forth. Regimental districts, except in cities, shall conform as nearly as convenient to the assembly districts of this State.

Commander-in-chief to organize into districts, &c.

§ 21. The organized militia of the State shall be known as the "National Guard of the State of New York," and shall consist of eight divisions, and such number of brigades, regiments, companies and battalions, and such batteries, troops, or squadrons as the commander-in-chief shall determine and designate, provided that the aggregate organized force of the national guard, in time of peace, to be fully armed, equipped and uniformed, shall not exceed the number of fifty thousand non-commissioned officers and privates, but the Commander-in-Chief shall have power, in cases of war or insurrection, or imminent danger thereof, to make further drafts of the militia and to form new regiments, battalions, batteries and troops and to organize the same, as the exigencies of the service shall require.

National guard organization.

And number.

§ 22. The national guard shall include the present uniformed militia of this state, and such volunteers as shall enroll themselves therein in the several districts of this state, and such persons as may be drafted therein, as hereinafter provided, and shall be organized, and shall serve as engineers, artillery, light artillery, cavalry, infantry and rifles, as the Commander-in-Chief shall direct.

Of what composed.

PART I.

Commander-in-chief to appoint and commission.

§ 23. The Commander-in-Chief is hereby authorized and empowered, so soon as may be convenient after the passage of this act, to appoint and commission the brigade, regimental and company officers, in the first instance, necessary to complete the organization of all military districts hereafter to be created, and to fill all vacancies necessary for the complete organization of all military districts now created in this state, but not sufficiently organized for an election. All officers superseded by such appointment shall become supernumerary officers.

Non-commissioned officers.

§ 24. The commandant of each regimental district, for the purpose of organization, is hereby authorized and required to appoint the non-commissioned officers required by law for each company in his district, and to issue to such non-commissioned officers the proper warrants of their appointment, until the organization of such regiment shall be complete.

Organization and discipline.

§ 25. The organization of the national guard shall conform to the provisions of the laws of the United States, and their system of discipline and exercise shall conform as nearly as may be to that of the army of the United States, as it now is or may hereafter be prescribed by congress.

Duty of company officers.

§ 26. Company officers shall use their best efforts to obtain sufficient volunteers to raise their respective companies to the number of, at least, sixty-four non-commissioned officers and privates, which number is hereby fixed as the minimum, and one hundred as the maximum of such company organization.

How filled up.

§ 27. In case any company of the national guard shall not, on or before the first day of October next, by voluntary enlistments, reach the number of sixty-four privates, or in case such company shall at any time fall below such number, or in case a sufficient number of persons shall not volunteer to organize new companies in the unorganized company districts, it shall be lawful for the Commander-in-Chief to order a sufficient number of persons, and also fifty per cent in addition, to be drafted from the reserve militia of the first class, in the manner hereinafter provided, to raise such companies to and maintain the same at such number. The persons so drafted shall thereupon be enrolled as members of said company, and unless they shall furnish substitutes as hereinafter provided, shall be subject to the duties herein mentioned, and in case of non-performance of such duties shall be subject to the pains and penalties herein mentioned; and such persons or their substitutes shall be entitled to all the privileges and exemptions conferred under any of the terms of this act.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 541.

Officers.

§ 28. To every company there shall be one captain, one first, one second lieutenant, four sergeants, four corporals and three musicians, except in companies of artillery and cavalry, which may have one first and two second lieutenants, pro-

vided, however, that whenever any company shall exceed fifty rank and file it may have five sergeants and eight corporals.

§ 29. Companies shall be formed in separate company districts when practicable, but the commander-in-chief may, in his discretion, organize more companies than one in the same district, or parts of a company in different districts. Districts.

§ 30. Each division shall consist of not less than two brigades, each brigade not less than two regiments, each regiment not less than eight battalion companies of sixty-four non-commissioned officers and privates. Whenever any company shall fall below the number of sixty-four non-commissioned officers and privates, such company may be consolidated or disbanded; and whenever any regimental organization shall fall below the number of eight battalion companies or an aggregate force of five hundred and twelve non-commissioned officers and privates, such regiment shall thereupon be designated as a battalion, but shall retain its regimental number, unless such battalion shall be consolidated or disbanded. Divisions,
brigades,
&c.

Consolidation
of
companies,
&c.

§ 31. The Commander-in-Chief shall have power to organize, under the provisions of this act, battalions of infantry and rifles, and battalions, batteries or companies of artillery, or for special services where it is not expedient or convenient to form regimental organizations, or whenever the exigencies of the service may require. Battalions.

§ 32. No non-commissioned officer, musician or private belonging to any troop of cavalry or company of artillery, light artillery, riflemen or infantry shall leave the troop or company to which he belongs to serve as a fireman in any fire company now raised or hereafter to be raised in any city or county; nor shall he leave such troop or company and enlist in any other, without the written consent of the commandant of the regiment, battalion or battery, and of the squadron, troop or company to which he belongs, except he shall have removed out of the beat of such troop or company. Such exception shall not apply to any troop or company situate in any of the cities of this state. Men not to
leave com-
pany to
join fire
companies.

§ 33. No person under the age of twenty-one years shall hereafter enlist in or join any uniform troop or company without the consent of his parent or guardian, master or mistress, unless drafted in accordance with the provisions of this act. Enlist-
ments.

§ 34. Every officer of the line and staff, and every officer and private of any uniform company of this state shall provide himself, according to the provisions of this act, with a uniform complete, which shall be such as the Commander-in-Chief shall prescribe, and subject to such restrictions, limitations and alterations as he may order. Officers'
uniform.

§ 35. Any non-commissioned officer or private may, upon his enlistment or upon being drafted, in accordance with the provisions of this act, if he so select, be furnished at the expense of the state with proper uniform and equipments of his Uniform
and equip-
ments.

PART I.

regiment or corps; in such case an entry to that effect shall be made on the company roll, and such uniforms shall be furnished by the quartermaster-general's department upon the requisition of the commandant of the regiment or battalion; but such uniform and equipments shall in no case be different from those prescribed by the general regulations of the military forces of the State of New York, unless by special authority of the Commander-in-Chief, and only two uniforms shall be furnished by the state to any non-commissioned officer or private during his term of enlistment, except in case of actual service in garrison or field duty.

Conditions.

§ 36. In case such uniform and equipments be furnished in accordance with the last preceding section, the same shall be left at the company armory for safe keeping, and the person applying for the same shall be charged with the value thereof, and shall be entitled to receive half pay only for services, under this act, at drills, parades, encampments and lake and sea coast defence duty, until the sum charged against him therefor shall have been liquidated by such service, when such uniform and equipments shall become the property of such person.

Penalty for selling uniform, &c.

§ 37. Whoever shall secrete, sell, dispose of, offer for sale, or in any manner pawn or pledge any uniform or equipments, the property of the people of this state, and any member of or substitute in the national guard who shall, when not on duty, wear any such uniform or equipments without the permission of his commanding officer, shall be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for not less than one nor more than two months, or by a fine of not more than one hundred nor less than fifty dollars.

Uniforms, how furnished.

§ 38. The Quartermaster-General shall, under the direction and with the approval of the Commander-in-Chief, cause to be manufactured the uniforms and equipments, which may from time to time be required for each regiment for the purposes mentioned in this act. And the Comptroller, upon the order of the Commander-in-Chief, shall draw his warrant upon the treasurer for such sums as shall, from time to time, be expended for the purchase or manufacture of said uniforms and equipments: Provided, always, that the price paid for the same shall in no case exceed the prices paid for uniforms and equipments of like quality for the army of the United States.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 543.

Accounts to be audited.

§ 39. All vouchers and accounts under the last preceding section shall, from time to time, be audited by a committee, to consist of the Comptroller, Treasurer and Secretary of State.

Books of tactics.

§ 40. The Commander-in-Chief shall, from time to time, direct such books as to him shall appear expedient, as a guide for the military forces of this state, to be provided, and shall furnish the same to all commissioned officers at the expense of the state.

Companies, &c., to be numbered.

§ 41. The Commander-in-Chief shall cause each company, squadron, troop, battery, battalion, regiment, brigade and divisions to be numbered or lettered in such manner as he shall deem proper and best calculated to secure uniformity. Each company, squadron, troop, battery, battalion, regiment, brigade and division shall be known by its number and designation, which shall be registered at the Adjutant-General's office.

CHAP. X.
Officers,
how
chosen.

§ 42. Non-commissioned officers shall be chosen from the members of the company to which they belong. All commissioned officers residing in any city or incorporated village in this state shall be deemed to be within the bounds of their respective commands, providing any part of the military district to which they properly belong shall be located within such city or village.

§ 43. All existing uniformed companies in any such regimental district, city or village, shall be deemed to be organized under the provisions of this act; but no such company shall be so constituted, unless at the time of such application it contains thirty-two non-commissioned officers and privates.

Existing
compa-
nies.

§ 44. Whenever six uniformed companies shall be organized in any of the regimental districts of this state, the Commander-in-Chief shall order an election to be held for the choice of suitable persons to fill the offices of colonel, lieutenant-colonel and major in such regiment, by directing some suitable officer to give the proper notice of such election, and to preside thereat, unless such officer shall already have been elected or appointed; but the colonel so elected or appointed shall not be commissioned until eight battalion companies of sixty-four non-commissioned officers and privates shall be fully organized.

Election of
regimental
officers.

§ 45. As soon as the field officers in the regiments in any of the brigade districts of this state shall be duly chosen and commissioned, the Commander-in-Chief shall order an election to be held for the choice of a suitable person to fill the office of brigadier-general and brigade inspector in such brigade district, by directing some suitable officer to give the proper notices of such election and preside thereat, unless such brigadier-general and brigade inspector shall already have been elected or appointed, as provided by this act.

Brigade
officers.

§ 46. All commissioned officers rendered supernumerary by the provisions of this act, and every officer rendered supernumerary by any consolidation or alterations of regiments, battalions, squadrons, troops or companies, shall be entitled to all the privileges conferred by any preceding law (except command), and shall be exempt from the performance of any military duty, except in cases of war and insurrection, provided they shall, within one year after being so rendered supernumerary, have reported themselves to the adjutant-general as such; provided, however, that no officer rendered supernumerary shall be entitled to vote at any election held for the choice of officers, or serve as a member of any court-martial.

Supernu-
merary
officers.

§ 47. Volunteers under the provision of this act may be received in any company of the national guard, whether such volunteer reside in the company district or not; but persons liable to military duty shall be drafted only in the district where they may reside.

Volunteers
received
in any
company.

§ 48. Any officer, non-commissioned officer, musician or uniformed private, who may change his residence from within the bounds of the first division into any adjacent county, or

Change of
residence
in 1st
division.

PART I.

from within any county adjacent into the said division district, shall not thereby vacate his office or post, but he shall be held to duty in the division, brigade, regiment, troop or company to which he was attached at the time of such change of residence, and shall be eligible to promotion, election or appointment to office therein, and he shall be subject to duty therein, and shall be entitled to all privileges, immunities and exemptions allowed by law, and shall be liable to fines and penalties, and the collection of them, in the same manner as if such change of residence had not taken place, and process for the collection of such fines and penalties may be executed in either New York or any adjacent county.

Of the Election and Appointment of Military Officers and the Tenure of their Offices.

Major-generals and commissary.

§ 49. All major-generals and the commissary-general shall be nominated by the Governor, and appointed by him, with the consent of the Senate.

Adjutant-general to commission.

§ 50. The resolution of the Senate concurring in any nomination made by the Governor to a military office, shall be certified by the president and clerk of the Senate, and be transmitted to the Adjutant-General, who shall issue the commission and record the same in books to be provided by him.

Staff of commander-in-chief.

§ 51. The staff of the Commander-in-Chief shall consist of the adjutant-general, an inspector-general, engineer-in-chief, judge advocate-general, quartermaster-general, commissary-general of subsistence, paymaster-general, surgeon-general and three aids, who shall be appointed by the Governor, and whose commission shall expire with the time for which the Governor shall have been elected.

Commissary-general.

§ 52. The commissary-general shall hereafter be known as the commissary-general of ordinance, and shall not enter on the duties of his office until he shall have taken the oath of office prescribed in the constitution. Such oath shall be taken before any officer authorized to administer the same oath to the Attorney-General within the same period, and subject to the same regulations.

Captains and other officers, how chosen.

§ 53. Captains, subalterns and non-commissioned officers of organized regiments shall be chosen by the written or printed votes of the members of their respective companies; field officers of organized regiments and battalions, by the written or printed votes of the commissioned officers of their respective regiments and battalions; and brigadier-generals and brigade inspectors by the written or printed votes of the field officers of their respective brigades, if organized.

Staff of general officers.

§ 54. Major-generals, brigadier-generals, and commanding officers of regiments or battalions, shall appoint the staff officers of their respective divisions, brigades, regiments or battalions, whose term of office shall expire when the persons appointing them shall retire from office; but they shall continue to hold such office until their successors shall be appointed and have qualified.

CHAP. X.

§ 55. The commissioned officers of the militia shall be commissioned by the Governor; but he may in his discretion withhold such commission, in order to determine the qualifications of the person for the office to which he shall have been elected or appointed, and in case of a general or field officer, if, upon reference to the inspector-general or an examining board, and in case of a line officer upon reference to his brigade commander, such person shall be adjudged unqualified for such office, another officer shall, within ten days after due notice of such adverse decision, be elected or appointed, and in default of such election the vacancy shall be filled by the Commander-in-Chief; and no commissioned officer can be removed from office unless by the senate, on recommendation of the Governor, stating the grounds on which such removal is recommended; or by the decision of a court-martial, or retiring or examining board, or pursuant to law.

Governor to commission.

Removal of commissioned officers.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 543.

§ 56. Sergeant-majors, quartermaster-sergeants, sergeant standard bearers and drum-majors, shall be appointed by the commanding officer of the regiment or battalion to which they shall belong, by warrant under the hand of such commanding officer, and shall hold their offices during his pleasure.

Subordinate officers, how appointed.

§ 57. Whenever the office of a brigadier-general is vacant in any organized brigade, the Commander-in-Chief shall issue an order for an election to fill the vacancy, and shall designate a major-general or some other proper officer to preside at such election.

Vacancies.

§ 58. The officer so designated shall cause a written or printed notice to be served on each of the field officers of the brigade in which the vacancy exists, at least ten days previous to the election, specifying the time and place of holding such election.

Notice of election.

§ 59. Whenever the office of any field officer in any organized regiment or battalion is vacant, the commanding officer of the brigade to which such regiment or battalion belongs shall cause a written or printed notice to be served on each commissioned officer in such regiment or battalion of an election to fill the vacancy. The notice shall specify the time and place of holding the election, and be served at least five days before such election shall take place.

Vacancy in field office.

§ 60. Whenever the office of a captain or subaltern in any organized company or troop is vacant, the commanding officer of the regiment or battalion to which such company or troop belongs, shall cause a written or printed notice of an election to fill the vacancy, to be served on the members of such company or troop, at least three days before the election shall take place, and shall specify in such notice the time and place of the election.

Vacancy in office of captain or subaltern.

§ 61. All notices for an election shall be served on the persons entitled to vote thereat, in the same manner as non-commissioned officers, musicians and privates are warned to attend a parade, as prescribed in section one hundred and thirty-nine of this act.

Notices, how served.

§ 62. The officer issuing the notice shall designate some proper person or persons to serve the same or to direct such service; and the person so designated shall make a return of the persons notified, and of the manner of the services.

Return of service.

§ 63. The return, if made by a commissioned officer, shall be authenticated by his certificate on honor; if by a non-commissioned officer, by the oath of the person making such service. The oath may be administered by any magistrate, or by the officer issuing the notice.

Return, how authenticated.

PART I.
Officer to
attend
election.

§ 64. The officer causing the notice to be given for any of the aforesaid elections, shall attend at the time and place of holding such elections; he shall organize the meeting and preside thereat, and may, for sufficient cause, adjourn the same from time to time.

Presiding
officer.

§ 65. If the officer causing the notices to be given shall not attend the meeting for the election, then the officer of the highest rank present, or in case of an equality of rank between two or more, then such of them as the majority of the electors present shall choose, shall preside at such meeting. And the officer issuing such notices, shall cause the proper evidence of service of such notices on all the electors to be delivered to such presiding officer. And at meetings for the election of company officers, the company roll, carefully revised, shall in like manner be delivered with such evidence. And if it shall happen at any election for commissioned officers that legal notice has not been given to all the persons entitled to vote thereat, the presiding officer shall adjourn the meeting, and cause such notice to be given. The presence of a person entitled to vote at any election shall be deemed a waiver of his right to take exception to the want of legal notice.

Polls.

Canvass.

§ 66. The presiding officer at any election for commissioned officers, shall keep the polls opened at least one hour after the time appointed for holding the same. He shall then publicly canvass the votes received from the electors for the officers to be elected, and shall forthwith declare the result, and give notice to every person elected of his election. If such person shall not, within ten days after being notified of his election, signify to such officer his acceptance, he shall be considered as declining the office to which he shall have been chosen, and an election shall be held for a new choice.

Certificate
of election.

§ 67. Immediately after the person elected shall have signified his acceptance, the officer who shall have presided at the election, shall, in case of the election of a brigadier general, communicate the same to the Commander-in-Chief; and in all other cases, if not himself the commanding officer of the brigade, shall certify to such commanding officer the names of the persons duly elected.

Vacancy by
promotion,
how filled.

§ 68. If at any election an officer, then in commission, shall be elected to fill a vacancy, and shall accept, the electors present, whether such officer be present or absent, shall proceed to elect a person to fill the place of the officer so promoted, if the officers or persons assembled at such meeting have authority to make the choice.

Names to be
sent to
command-
er-in-chief.

§ 69. The commanding officers of brigades shall transmit the names of persons duly elected and approved or appointed to offices in their respective brigades, to the Commander-in-Chief, to the end that commissions may be issued to them.

Appeal.

§ 70. Every person thinking himself aggrieved by the proceedings at any election for a commissioned officer may appeal, if the election be for a brigadier general, to the Com-

mander-in-Chief, and in other cases to the commanding officer of the brigade to which such person belongs.

§ 71. The officer appealed to shall have power to administer oaths, and shall hear and determine the appeal; and if in his opinion the proceedings at such election are illegal, he shall declare the election void, and shall order an election to be held without delay for a new choice.

Appeal,
how deter-
mined.

§ 72. Any person concerned may appeal from the decision of the commanding officer of the brigade to the Commander-in-Chief, who shall hear and determine such appeal, and in case it shall be necessary, order a new election.

Appeal to
command-
er-in-chief.

§ 73. The Commander-in-Chief may make such rules and regulations relative to appeals as he shall deem necessary and proper to give full effect to the provisions of the constitution and of this act.

Conduct of
appeals.

§ 74. The Commander-in-Chief shall issue commissions to all officers duly elected or appointed in pursuance of the provisions of this act; and every officer duly commissioned shall, within ten days after his commission shall be tendered to him, or within ten days after he shall be personally notified that the same is held in readiness for him, by any superior officer, take and subscribe the oath prescribed in the constitution of this state; and in case of neglect or refusal to take such oath within the time mentioned, he shall be deemed to have resigned said office, and a new election shall be forthwith ordered to fill his place. The neglect or refusal of an officer elect to take such oath shall be no excuse for neglect of duty until another shall be duly commissioned in his place.

Commis-
sions.

§ 75. Every commissioned officer shall take and subscribe such oath before a judge of some court of record in this state, county clerk, commissioner to take affidavits, justice of the peace, or some general or field officer who has previously taken it himself, and who is hereby authorized to administer the same.

Oath.

§ 76. A certificate of the oath shall be endorsed by the officer administering the same on the commission, and a copy thereof shall be filed in the Adjutant General's office.

Copy to be
filed.

§ 77. No fee shall be received for administering any such oath, or endorsing such certificate.

Fees.

§ 78. Any organized company or troop may, at any meeting thereof, elect non-commissioned officers to fill any vacancy therein.

Vacancies
in non-com-
missioned
officers.

§ 79. Such election shall be directed and conducted by the commanding officer of such company or troop for the time being, who shall certify the names of the persons elected to the commanding officer of the regiment or battalion to which the company or troop belongs, who shall decide upon the legality of the election, and issue warrants to the persons duly elected.

Elections,
how con-
ducted.

§ 80. The commandants of companies or troops may, whenever they deem it necessary, call a special meeting of their

Special
meeting of
companies.

PART I.

Votes necessary to a choice.

respective companies or troops for an election of non-commissioned officers.

§ 81. A majority of the votes of all persons present at an election of brigadier general shall be necessary to a choice; in all other cases a plurality shall be sufficient.

Resignations.

§ 82. No officer shall be considered out of the service on the tender of his resignation until it shall have been accepted by the Commander-in-Chief. The commanding officers of brigades shall receive the resignations of such commissioned officers as may resign in their respective brigades, and shall transmit the same to the Adjutant General. Resignations of all other commissioned officers shall be made direct to the Commander-in-Chief.

When not permitted to resign.

§ 83. No officer shall be permitted to resign his commission who shall be under arrest, or who shall be returned to a court-martial for any deficiency or delinquency; and no resignation shall be accepted unless the officer tendering the same shall furnish to the Adjutant General satisfactory evidence that he has delivered all moneys in his hands as such officer, and all books and other property of the state in his possession to his next superior or inferior officer, or to the officer authorized by law to receive the same, and that his accounts for money or public property are correct.

Regulation in time of war.

§ 84. In time of war, or when the military forces of this state are in actual service, resignations shall take effect thirty days from the date of the order of acceptance, unless otherwise specially ordered by the Commander-in-Chief.

Vacancies, how filled.

§ 85. On accepting the resignation of any officer, the Commander-in-Chief shall cause the necessary notices and orders to be given for an election to fill the vacancy so created; provided, however, that when the military forces of this state shall be in the actual service thereof, or in the service of the United States in time of war, insurrection, invasion or imminent danger thereof, the Commander-in-Chief shall fill all vacancies of commissioned officers, by appointment.

Removal from command.

§ 86. Every officer who shall move out of the bounds of his command (unless such removal shall not be beyond the bounds of a city in which such command shall lie in whole or in part,) and every officer who shall be absent from his command twelve months without leave of the commanding officer of his brigade, shall be considered as having vacated his office, and a new election shall be held, without delay, to fill the vacancy so created, except as above provided.

Qualification of voters.

§ 87. No person shall be allowed to vote at any election for a commissioned or non-commissioned officer of a company unless he is an actual member of such company where he shall offer to vote, and liable to do military duty therein.

Challenges.

§ 88. If any person offering to vote at any election for a commissioned officer of a company shall be challenged as unqualified by any person entitled to vote thereat, the pre-

siding officer shall declare to the person so challenged the qualifications of an elector.

§ 89. If he shall state himself to be duly qualified, and the challenge shall not be withdrawn, the presiding officer shall then tender him the following oath: "You do swear (or affirm) that you are an actual member of the company commanded by , and that you are liable to do military duty therein."

§ 90. The commissioned officer who shall receive a commission for any subordinate officer shall, within thirty days thereafter, give notice thereof to the person entitled to it.

§ 91. The Commander-in-Chief is hereby authorized, so often as he may deem that the good of the service requires, to appoint a military board or commission of not less than three nor more than five officers, to sit at such place as he shall direct, whose duty it shall be to examine into the physical ability, moral character, capacity, attainments, general fitness for the service and efficiency of such commissioned officers as the Commander-in-Chief may order to be examined by said board, or who may be reported for examination to the Adjutant-General by colonels of their regiments, or general officers commanding their brigades or divisions, and upon such report may be ordered to be examined by the Commander-in-Chief. If the decision of said board be unfavorable to such officer, and be approved by the Commander-in-Chief, the commission of such officer shall be vacated; provided, always, that no officer shall be eligible to sit on such board or commission whose rank or promotion would in any way be affected by its proceedings, and two members at least, if practicable, shall be of equal rank with the officer to be examined. The officers constituting such board shall receive the same pay and allowances for traveling expenses as members of courts-martial.

§ 92. No officer whose commission shall have been vacated under the next preceding section shall be eligible for election to any military office for the period of one year, and his election shall be void; and in case the vacancy so created shall not, within thirty days, be filled by the election of some other and proper person, the Commander-in-Chief shall have power to fill such vacancy by appointment.

§ 93. If any commissioned officer shall have become, or shall hereafter become, incapable of performing the duties of his office, and any commissioned officer who shall have served in the same grade for the continuous period of ten years, may be placed on the supernumerary list, and withdrawn from active service and command.

§ 94. In order to carry out the provisions of this act, the Commander-in-Chief shall from time to time, as the occasion may require, cause to assemble a board of not less than three

Oath.

Commissions.

Military board, their powers and duties.

Compensation.

When officers not eligible.

When officers to be placed on supernumerary list.

Court of inquiry for disabled or unfit officers.

PART I.

nor more than five commissioned officers, one of whom at least shall be of the medical staff, to determine the facts as to the nature and occasion of the disability of such officers as appear disabled or unfit from any cause to perform military service; such board being hereby invested with the powers of a court of inquiry and court-martial, and their decision shall be subject to like revision as that of such courts by the Commander-in-Chief. The board, whenever it finds an officer incapacitated for active service, shall report such fact to the Commander-in-Chief, and if he approve such judgment, the disabled officer shall thereupon be placed upon the supernumerary list, according to the provisions of this act; provided, always, that the members of the board shall in every case be sworn to an honest and impartial performance of their duties, and that no officer shall be placed upon the supernumerary list by the action of said board without having had a fair and full hearing before the board, if upon due summons he shall demand it.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 542.

Power of
suspension.

§ 95. In time of war, insurrection, invasion, or imminent danger thereof, when the military forces of this state shall be in the actual service thereof, the Commander-in-Chief shall have power, whenever the public interests may in his opinion so require, to suspend from active service such officer or officers as he shall deem it discreet so to suspend and fill the vacancy thus created by appointment; but no such suspension shall continue for a longer period than thirty days, unless a court-martial shall have in the mean time been ordered for the trial of such officer or officers.

Of the Organization of the Staff Departments.

Staff of
command-
er-in-chief.

§ 96. The Commander-in-Chief shall be entitled to three aids and one military secretary, each with the rank of colonel, and a military messenger, with rank of second lieutenant. The commissary-general shall be a member of the staff of the Commander-in-Chief and be subject to the provisions of this act.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 544.

Major-
general.

§ 97. Each major-general shall be entitled to two aids, with the rank of major, and each brigadier-general to one aid, with the rank of captain.

Adjutant-
general.

§ 98. The adjutant-general shall have the rank of brigadier-general, and in his department there shall be an assistant adjutant-general, with the rank of colonel, and such acting assistants as may be approved by the Commander-in-Chief; to each division a division inspector, with the rank of colonel; to each brigade a brigade inspector, to serve also as a brigade major, with the rank of major; and to each regiment or battalion an adjutant, with the rank of first lieutenant.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 544.

Inspector-
general.

§ 99. The inspector-general shall have the rank of brigadier-general, and his duty shall be to attend to the organization of the militia of this state. He shall inspect every branch connected with the military service, attend the military parades and encampments, when other official duties will permit, and report annually to the Commander-in-Chief. In the inspector-general's department there shall be an assistant inspector-general, with the rank of colonel, who shall also act

under the directions of the Inspector-General as inspector of military accounts.

§ 100. The Engineer-in-Chief shall have the rank of brigadier-general; and there shall be in his department, to each division, a division engineer, with the rank of colonel; to each brigade a brigade engineer, with the rank of major; to each regiment one engineer, with the rank of captain. Engineer-in-Chief.

§ 101. In the Quartermaster-General's department there shall be a Quartermaster-General, with the rank of brigadier-general; an assistant quartermaster-general, with the rank of colonel; to each division a division quartermaster, with the rank of lieutenant-colonel; to each brigade a brigade quartermaster, with the rank of captain; and to each regiment or battalion a quartermaster, with the rank of lieutenant: and the Quartermaster-General may, with the approval of the Commander-in-Chief, appoint so many storekeepers as the exigencies of the service may require, not exceeding one to each storehouse. Quartermasters.

As amended by Laws of 1864, ch. 334. Post, vol. 6, p. 255.

§ 102. In the department of the Commissary-General of subsistence there shall be a Commissary-General of subsistence, with the rank of colonel; and in his department there shall be so many assistant commissaries, with the rank of captain, as the exigencies of the service may require; such assistant commissaries to be appointed by the Commander-in-Chief, and to hold their offices during his pleasure. Commissary department.

§ 103. In the Paymaster-General's department there shall be a Paymaster-General, with the rank of brigadier-general; and in his department there shall be an assistant paymaster-general, to be appointed by the Paymaster-General, with the rank of colonel; to each division a division paymaster, with the rank of major; and to each brigade a brigade paymaster, with the rank of captain; but such paymasters may at any time be detached from service in said brigades or divisions, as well as other officers of the general staff, by order of the Commander-in-Chief. Paymasters.
As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 544.

§ 104. The commissary-general shall hereafter be known as the commissary-general of ordnance, and shall have the rank of brigadier-general; and in his department there shall be an assistant, with the rank of colonel, and so many military storekeepers, for the safe keeping and the preservation of the state arsenals, magazines, fortifications and military stores belonging to this state, as he may find it necessary to appoint, not exceeding one to each arsenal. Commissary department.

§ 105. In the hospital department there shall be a surgeon-general, with the rank of brigadier-general; to each division a hospital surgeon, with the rank of colonel; to each brigade a hospital surgeon, with the rank of major; to each regiment a surgeon, with the rank of major; and to each regiment or separate battalion an assistant surgeon, with the rank of first lieutenant, who shall be commissioned on the recommendation of the Surgeon-General; but the rank of these officers shall not entitle them to promotion in the line, nor regulate their pay and allowances in the service; all such officers to be graduates of some incorporated school of medicine. Hospital department.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 545.

§ 106. To each regiment or battalion there shall be appointed one chaplain, who shall be a regular ordained minister of a christian denomination. Chaplains.

PART I.

Judge advocate department.

§ 107. In the judge advocate's department there shall be a judge advocate-general, with the rank of brigadier-general; to each division a division judge advocate, with the rank of colonel; and to each brigade a brigade judge advocate, with the rank of major.

Sergeants.

§ 108. There shall be to each regiment or battalion two sergeant standard bearers, one sergeant major, one quartermaster sergeant, one commissary sergeant, and one drum major; and to each regiment or battalion of light artillery and cavalry one trumpet major.

Chief of staff department.

§ 109. The chief of each staff department shall, under the direction of the Commander-in-Chief, have command over all subordinate officers in his department; and shall, from time to time, issue orders and instructions for their government and practice.

Staff departments and additional aids.

§ 110. The Commander-in-Chief is hereby authorized and empowered to organize, in his discretion, the various staff departments, and to prescribe, by rules and regulations, the duties to be performed by the officers connected therewith, which shall, as far as may be, conform to those which are prescribed for the government of the staff department in the army of the United States; and, in time of war, insurrection or invasion, or imminent danger thereof, and when the exigencies of the service shall require, he may appoint and commission three additional aids upon his staff, with the rank of colonel; and also such number of assistants in the several staff departments, with the rank of lieutenant-colonel or major, as in his judgment shall be necessary. Such assistants shall be selected from persons who have served meritoriously in the volunteer service of the United States, and shall hold their commissions only during the term of service of the staff officer in whose department they shall be appointed, or during the pleasure of the Commander-in-Chief.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 545.

Blanks to be furnished.

§ 111. Each chief of such department shall prepare and transmit, at the expense of this state, all blank forms of returns, precepts, warrants and proceedings necessary in his department.

Of the Organization of Bands of Musicians.

Bands.

§ 112. The commanding officer of each regiment or battalion may, in his discretion, organize a band of musicians, and by warrant, under his hand, may appoint a leader of such band.

To be subject to leader.

§ 113. Such musicians shall be subject to the orders of such leader, and be under the command of the commanding officer of the regiment or battalion; and the whole or any part of said band may be required by such commanding officer to appear at any meeting of the officers for military purposes, and at the review and inspection or encampment of such regiment or battalion.

Returns of leader.

§ 114. The leader of each band shall, whenever required by such commanding officer, make returns to him of the warning of the members of his band, and of the delinquents and delinquencies therein; which returns shall be duly authenticated by the oath of such leader, taken before a field officer of such regiment or battalion.

Return to be evidence.

§ 115. Such return, so sworn to, shall be received as evidence in all cases, in the same manner as like returns of non-commissioned officers of infantry companies.

Delinquents.

§ 116. Such commanding officer shall make the like returns of all such delinquents and delinquencies, as in cases of non-commissioned officers and musicians in companies of infantry,

and with like effect, and the courts-martial shall impose the like penalties on such delinquent members of said band.

§ 117. The commanding officer of such regiment or battalion shall have authority to disband such band, whether now or hereafter established, and to revoke the warrant of its leader. How disbanded.

§ 118. The provisions of this article shall apply to all musicians employed to serve with the military forces of this state.

Of the Issuing and safe keeping of arms.

§ 119. Whenever any company, organized under the provisions of this act, shall have reached the minimum number of thirty-two non-commissioned officers and privates, the supervisors of the county in which such company district is situated may, at their discretion, upon the demand of the captain or commandant of such company, countersigned by the colonel of the regiment, together with the certificate of the Adjutant-General, that such company comprises thirty-two non-commissioned officers and privates, who, as appears by the certificate of the colonel of the regiment to which such company is attached, regularly attend the drills and parades of said company and have been furnished with arms, erect or rent within the bounds of such regiment, for said company, a suitable and convenient armory, drill room and place of deposit for the safe keeping of such arms, uniforms, equipments, accoutrements and camp equipage as shall be furnished such company under the provisions of this act; except in such places where a public armory shall then exist, the same armory to be used by several companies, or shall provide a regimental or battalion armory to be used by all the companies, as the inspector-general and the board of supervisors of the county shall deem expedient. Armories.

As amended by Laws of 1863, ch. 425. Post, vol. 6, p. 152.

§ 120. The expense of erecting or renting such armories shall be a portion of the county charges of such county, and shall be levied and raised in the same manner as other county charges are levied and paid. Expense to be a county charge.

§ 121. In case such armory shall not be erected or rented by the supervisors for the use of such company, the commandant of the regiment, in his discretion, with the approval of the inspector-general, may rent a room or building to be used for the purpose of such armory, and the amount of rent thereof, provided the same shall not exceed the sum of two hundred and fifty dollars for each company, in the several cities of this state, and fifty dollars for companies not located in cities, shall be a county charge, and shall be paid by such supervisors, and levied and raised as herein before provided. Renting of armories.

§ 122. Such armory, when erected or rented, shall be under the control and charge of the commanding officer of the regiment in whose bounds or district it shall be located; and such commanding officer shall deposit therein all the arms and equipments received from time to time for the use of any company in his regiment. Armory to be subject to commanding officer.

§ 123. The commissary-general of the state shall furnish, on the order of the Commander-in-Chief, all necessary arms and equipments, suited to the particular company or corps belonging to each regiment, required for camp or field duty; Arms and equipments.

PART I.

the same to be furnished at the expense of the state, including transportation. But no arms or equipments shall be furnished to any company or corps, unless such company or corps shall be connected with the regular military organization of the state.

Commanding officer to be responsible.

§ 124. The commanding officer of each regiment or company shall be responsible for the safe keeping and return of all arms and equipments committed to his charge, and shall execute such bonds as the Commander-in-Chief shall require from time to time; and no company shall be so furnished until bonds for the safe keeping and return shall be made out and approved by the Commander-in-Chief, and until a suitable armory or place of deposit shall be assigned, rented or erected in such regiment.

Distribution of arms.

§ 125. The commanding officer of any regiment or company who shall have received, according to the provisions of this act, any arms and equipments from the state for the use of his regiment or company, shall distribute the same to his regiment or company as he shall deem proper, and require of those to whom they were distributed to return them at such time and place as he shall order and direct; and any officer who shall neglect or refuse to comply with such order shall forfeit the sum not to exceed double the price of any arms or equipments he shall have received, to be sued for and collected in the name of the commandant of the regiment, for the use of the military fund of such regiment.

Penalty.

Keeper of armory.

§ 126. The commanding officer of each regiment shall appoint a suitable person to take charge of the armory, armories or place of deposit of his regiment, or of the several companies in his regiment, and all arms, equipments and other property of the state therein deposited, and to discharge all duties connected therewith, as shall be from time to time prescribed by the commanding officer.

Compensation to additional aids.

§ 127. Such person so appointed shall receive a compensation not to exceed one dollar and fifty cents per day for the time actually employed in cleaning guns and other duties indispensably necessary for the safe keeping and preservation of such property of the state as shall be committed to his charge, which shall be a county charge upon the county in which said armory is situated, and audited and paid in the same manner as other county charges.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 543.

Rules.

§ 128. The Commander-in-Chief shall, from time to time, make such orders, rules and regulations as he may deem proper for the observance of all officers having charge of any armory in which arms of the people of this state shall be deposited.

Bonds for safe keeping.

§ 129. Whenever the commissioned officers of any unformed company in this state shall make application to the commanding officer of their regiment for any arms or equip-

ments belonging to this state as he shall deem proper; but no such arms or equipments shall be delivered unless the bonds given for the safe keeping and return thereof shall be approved by the sureties who became responsible in the bonds furnished to the Commander-in-Chief for all such arms and equipments.

§ 130. Any person who shall willfully injure such armory or its fixtures, or any gun, sword, pistol, or other property of the state therein deposited, shall be deemed guilty of a misdemeanor. Penalty.

§ 131. The Commissary-General may, from time to time, require any officer to examine any armory provided as aforesaid, and to report to him the condition thereof, and of the arms and camp equipage therein deposited. Examination of armory.

§ 132. All officers applying for the issue of camp equipage shall set forth in their application the number of tents which they will require, the time when their respective regiments or companies go into camp, and the number of days which such encampment will continue; and the commanding officer of each camp shall, immediately after the breaking up of the encampment, cause the equipage to be returned to such of the state arsenals, or turned over to such officer as may be directed by the Adjutant-General; provided, however, that such tents and camp equipage shall be deposited in some one of the state arsenals on or before the first day of November in each year. Camp equipage.

Of the Drills, Parades and Rendezvous of the National Guard, and of compensation for Military Services.

§ 133. Whenever any company or companies shall be organized, uniformed and equipped, in any regimental district of this state, such company or companies shall parade annually thereafter by regiment, battalion or company, at such time and place, between the first day of May and the first day of November, as the commanding officers of their respective brigades shall order and direct, for the purpose of discipline, inspection and review. At any such parade all the commissioned and non-commissioned officers, musicians and privates shall appear and discharge any and all the duties required to be performed by the commanding officer. No person shall be permitted in the ranks, on any parade, who does not appear in full uniform and armed and equipped, suited to the company to which he belongs; and no person shall be permitted in the ranks who is not fully armed and equipped according to the provisions of this act, and the laws of the United States; and all members who shall appear without such arms and equipments, or without a uniform, at any parade, shall be returned as absent from parade, and fined accordingly. At such annual parade an actual muster shall be made by the commanding officer present thereat, of each commissioned and non-commissioned officer, musician and private present and absent, and a muster roll in duplicate shall be made and officially certified to and returned by such commanding officer, in accordance with such regulations and restrictions as may be issued by the Commander-in-Chief. And the brigade inspector shall at the same time make a like muster of the field, commissioned and non-commissioned staff officers of each regiment, separate battalion or battery; and the said muster rolls shall be filed in the office of the Adjutant-General. Regimental and battalion parades. Muster rolls.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 546.

§ 134. In addition to the annual inspection herein specified, there shall be six drills or parades of the national guard in each year, not less than three of which shall be by regiment or battalion, and at such times and places as the Commander-in- Six drills or parades annually.

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Chief, commandant of division, brigade, regiment or battalion, shall direct.

Power of commanding officer.

§ 135. The commanding officer, at any parade, may cause those under his command to perform any field or camp duty he shall require; and also put under guard for the day or time of continuing such parade, any officer, musician or private who shall disobey the orders of his superior officer, or in any way interrupt the exercises of the day; also, all other persons who shall trespass on the parade ground, or in any way or manner interrupt or molest the orderly discharge of duty of those under arms; and also may prohibit and prevent the sale of all spirituous liquors within one mile of such parade or encampment; and also, in his discretion, all hucksters, or auction sales or gambling may be abated as nuisances.

Company parades.

§ 136. In addition to the drills and parades above specified the commanding officers of companies may require the officers, non-commissioned officers, musicians and privates of their companies to meet for company drill and parade once in each month from November to May, and so much oftener as a majority of the members of such company shall prescribe in and by the by-laws for the government of the same.

Election days.

§ 137. No parade or rendezvous of the national guard shall be ordered on any day during which a general or special election shall be held, nor within five days previous to such election, except in cases of riot, invasion or insurrection, or of imminent danger thereof; and if any officer shall order any such parade or rendezvous, he shall forfeit and pay to the people of this state the sum of five hundred dollars.

Warnings.

§ 138. For the purpose of warning the non-commissioned officers, musicians and privates to any parade, encampment or place of rendezvous, the commandant of each company shall issue his orders, under his hand, to his non-commissioned officers, or to such of them as he may deem proper, requiring them respectively to warn all the non-commissioned officers, musicians and privates of his company to appear at such parade, encampment or place of rendezvous, armed and equipped according to law and regulation.

How served

§ 139. Each non-commissioned officer to whom such order shall be directed, shall warn every person whom he shall be therein required to warn, by reading the orders, or stating the substance thereof in the hearing of such person; or in case of his absence, by leaving a notice thereof at his usual place of abode or business, with some person of suitable age and discretion, or by sending the same to him by mail, directed to him at the post office nearest his place of residence.

Return.

§ 140. Such non-commissioned officer shall make a return to his commandant, in which he shall state the names of all persons by him warned, and the manner of warning them respectively, and shall make oath to the truth of such return; which oath shall be administered by the commandant, and certified by him on the warrant or return.

§ 141. Such commandant shall deliver the return, together with his own return of all delinquencies, to the president of the proper court martial.

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Commandant's
return.

§ 142. The return of such non-commissioned officer, so sworn to and certified, shall be as good evidence, on the trial of any person returned as a delinquent, of the facts therein stated, as if such officer had testified to the same before the court martial on such trial.

Return
to be
evidence.

§ 143. Every commandant of a company shall make the like return, upon honor, and with like effect, of every delinquency and neglect of duty of his non-commissioned officers, either in not attending on any parade or encampment, or not executing or returning a warrant to them directed, or not obeying the orders of their commanding officers; and also the names of every non-commissioned officer, musician or private who shall refuse or neglect to obey the orders of his superior officer, or to perform such military duty or exercise as may be required, or depart from their colors, post or guard, or leave the ranks without permission from his superior officer.

Return
of delin-
quents.

§ 144. Any commissioned officer of a company may, without a warrant, warn any or all of the members of his company to appear at any parade, encampment or place of rendezvous. Such warning may be given by him, either personally or by leaving or affixing a notice, in the same manner as if given by a non-commissioned officer; and his certificate, upon honor, shall be received by any court martial as legal evidence of such warning.

Warning
by com-
missioned
officers.

§ 145. Nothing in the provisions of this act shall be so construed as to preclude, in the absence of a proper return, the giving in evidence, at any court martial upon trial for delinquencies, neglects of duty or offence whatsoever, matters of fact which go to substantiate the charge or offence; but all such proof shall be received under the usual rules of evidence in courts of justice.

Evidence.

§ 146. Every non-commissioned officer, musician and private of the national guard of this state, shall be holden to do duty therein for the term of seven years from his enlistment, unless disability after enlistment shall incapacitate him to perform such duty, or he shall be regularly discharged by the commandant of his regiment; all general and staff officers, all field officers, all commissioned and non-commissioned officers, musicians and privates, shall be exempt from jury duty during the time they shall perform military duty. No non-commissioned officer, musician or private in the national guard shall be discharged from service except for physical disability or expiration of term of service. Discharges for physical disability shall be given only upon the certificate of the regimental surgeon, and no member of any company shall be discharged from service except upon the certificate of the

Term of
service.

Discharges.

PART I.

commanding officer of his company, that such member has turned over or satisfactorily accounted for all property issued and charged to him. Commanding officers of regiments shall make returns to the adjutant-general on the first day of January and July of each year, of all discharges granted by them during the previous six months, giving names and grades of the persons so discharged, and the causes for which discharged.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 544.

Warning
for com-
pany drills,
&c.

§ 147. All notices, warrants or summons for officers, non-commissioned officers, musicians and privates of any company or troop to attend a drill, improvement meeting or court martial, may be served either personally or by leaving a written or printed notice, containing the substance of such notice warrant or summons, at the dwelling house, store, counting house or usual place of business of the person to be notified, warned or summoned, with some person of suitable age and discretion; and any officer, non-commissioned officer, musician or private may also be warned to attend any parade, encampment or drill by enclosing a notice, directed to him at his place of residence, by mail, directed to him at his nearest post office, at least five days before the service required of him.

Officers'
drills.

§ 148. The officers and non-commissioned staff officers of each regiment shall be warned to attend any parade or drill in the same manner as is prescribed by law for the warning of the privates of any company, and the commanding officer of each regiment may designate and order any or all of the non-commissioned staff officers of the regiment to perform that duty, who shall make return thereof to the commanding officer or the adjutant of the regiment, in the same manner and under the same penalties for delinquencies as are by law imposed on non-commissioned officers of companies for similar delinquencies.

Publi-
cation of
orders for
encamp-
ment.

§ 149. All orders for encampment, inspection and review shall be published at least twenty days previous to such parade, in such manner as the commandant of the brigade shall direct, and notice thereof shall at the same time be given to the Inspector-General; and all commanding officers of regiments, battalions or companies may, on any parade, read brigade, regimental or battalion orders, and notify their several commands to appear as specified in said brigade or regimental order for the purposes therein contained, which notice shall be a sufficient warning to all persons present.

Penalty for
neglect.

§ 150. Every officer, non-commissioned officer, musician and private of any uniformed company, who shall unnecessarily neglect to appear on the days at the time and place appointed for such duty, agreeably to the provisions of this act, shall be subject to such fines and penalties as are hereinafter provided.

Meetings
for exercise

§ 151. The commanding officer of any brigade, regiment or

battalion, in addition to the rendevous above prescribed, may require the commissioned officers and non-commissioned officers to meet for exercise and improvement, at such times and places as he shall appoint; and he may require them to appear with such arms and accoutrements as he may prescribe; said officers shall thereupon be formed into a corps of instruction, without regard to rank, and shall be thoroughly instructed in the manual of arms, the school of the soldier and company, and in such other theoretical and practical details of duty as the said commanding officer shall deem proper.

§ 152. Each commandant of division may review either one of the brigades in his division in each year; and he shall require the officers of the division staff, armed and equipped as the law and regulation direct, to accompany him. Reviews of divisions.

§ 153. The commandant of each brigade shall attend with the officers of the brigade staff, armed and equipped as the law and regulation direct, the annual inspection and review of the several regiments and battalions in his brigade. Commandant of brigades to attend.

§ 154. It shall be the duty of commandants of companies, at the annual inspection, to furnish the brigade inspector with a return which shall show: Company returns for inspection.

1. The number of commissioned, non-commissioned officers, musicians and privates of his company or troop present on parade, designating the number of each.

2. The number of such company absent from parade.

3. The uniforms, arms and equipments inspected.

4. The number of uniforms belonging to said company or troop.

5. The arms and equipments in the possession of said company or troop.

§ 155. It shall be the duty of each commandant of a regiment or battalion, within twenty days after the annual inspection, to furnish the brigade inspector with a return of the field and staff officers, non-commissioned staff officers, musicians of said regiment or battalion, present and absent, armed and equipped and uniformed according to law and regulation. Returns of field officers.

§ 156. At all encampments, the brigade inspector shall attend on the first day thereof, to superintend the exercises and manoeuvres, and to introduce the system of discipline which is or shall be prescribed by law; and on such day he shall take the command as drill officer, so far as shall be necessary to the execution of those duties; and he shall also make an annual inspection at such times as the commanding officer of the brigade shall order and direct. Brigade inspector at encampments.

§ 157. It shall be the duty of the brigade inspector to transmit a copy of the inspection return annually to the adjutant-general and a duplicate thereof to the inspector-general, and another duplicate of the same to the division inspector, within thirty days after the inspection shall be made. In order to secure a proper accountability for each member, and also for the security of property issued by the state, the annual inspection and muster rolls of each company and regiment shall be examined and compared by the inspector-general with the muster-in rolls and the last muster and inspection rolls of the several companies; and the annual regimental fund, provided by section five, chapter four hundred and twenty-five, Laws of eighteen hundred and sixty-three, shall be allowed to such regiments only as shall make a proper return of such rolls; and upon the certificate of the inspector-general that such rolls make a satisfactory exhibit of the members of the regiment and of the state property issued thereto. There shall be allowed to brigade inspectors, as compensation for the annual inspection and muster, and for making proper rolls and returns thereof, the sum of four dollars for each company so inspected and mustered, the same to be allowed and paid in the same manner as other military accounts, upon the certificate of the inspector-general. As amended by Laws of 1865, p. 612. Post, vol. 8, p. 547. Rolls to be returned to the adjutant-general and division inspector.

PART I.
Statement
of reviews
and inspec-
tions.

§ 158. It shall be the duty of the brigade inspector, within thirty days after the annual review in each year, to transmit to the Adjutant General a statement of the reviews and inspection of the several regiments or battalions in his brigade, attended by the commanding officer of division, accompanied by division staff, armed and equipped and uniformed according to law and regulation, and also the commanding officer of brigade, with the brigade staff, armed and equipped according to law and regulation.

Excuse for
neglect to
attend.

§ 159. In case any general officer or any member of his staff shall neglect to attend such inspection and review, it shall be the duty of the Adjutant General to require such officer to render an excuse in writing, to the Commander-in-Chief for his delinquency. If the Commander-in-Chief shall deem such excuse insufficient, he shall order a court martial to try the delinquency.

By-laws of
uniform
companies.

§ 160. Each uniform company may form by-laws, rules and regulations, not inconsistent with this act for the government and improvement of its members in military science, and when approved of by two-thirds of all the members belonging to any such company, shall be binding; but may be altered from time to time as may become necessary.

Violations
of rules,
how pun-
ished.

§ 161. For violations of the by-laws of any uniformed company, the non-commissioned officer, musician or private offending, by a vote of the company, three-fifths being present, may be expelled from the company; and upon the action of the company being confirmed in orders by the commandant of the regiment, the name of such person or persons shall be stricken from the roll of such company, his certificate of membership shall be surrendered and cancelled, and he or they shall cease to be a member or members of such company, and his or their term of service in said company shall not be allowed under the provisions of this act.

Enlisting
orders.

§ 162. The Adjutant General shall prescribe the form of enlisting orders to be furnished and used by each company or troop in recruiting or filling up such company or troop with its required number.

Division
command-
ers.

§ 163. The commandants of division shall discharge the duties, possess the powers, and be liable to the penalties pertaining to their office, as granted by law or military custom, provided that no division parades, except of the first division, or in case of invasion, insurrection, or to aid the civil authorities, shall be ordered without the consent of the Commander-in-Chief.

Command-
er-in-chief
may order
parades.

§ 164. The Commander-in-Chief may order such parades or drills of the uniformed troops, or any part of them, as he shall deem proper.

Camps of
instruction.

§ 165. There shall be a camp of instruction once in each year after the present year, in each of the division districts of this state, if the Commander-in-Chief shall so order, to be held at such time and in such manner as he shall direct; and

the Commander-in-Chief is hereby authorized and empowered to order such companies and regiments from such division districts, respectively, to attend such camps as he may deem proper, but in such manner that all the companies and regiments therein shall be ordered to attend such camp from year to year in rotation; provided, always, that not more than ten thousand men in any one year shall be ordered to attend said camps; and in case suitable ground cannot be found in any district for said camp, the same may be held in the adjoining district.

§ 166. Such camps shall continue for a period not exceeding ten days, and shall be governed by the rules and regulations of the army of the United states. Time limited.

§ 167. The Commander-in-Chief is hereby authorized and empowered, at his discretion, to order such regiments, battalions, batteries or companies as he shall deem proper, and without regard to arm, not, however, exceeding one thousand men in any one year, to be stationed at such forts or other places as may be furnished by the United States government, or as may be convenient for that purpose within the State of New York for a period not exceeding ten days in any one year, for instruction in the management of heavy artillery for sea and lake coast defence under such instructions as he shall assign for that purpose. Artillery practice, and instruction in United States forts

§ 168. The Commander-in-Chief shall designate commissioned officers of proper rank, without regard to military districts, to command such camps, forts or other places, and shall assign such other officers, also without regard to military districts, to duty as field and staff officers and instructors, as may be required to fully officer such camps and forts. Officers to be assigned commands.

§ 169. The Commissary General of ordnance shall furnish, upon the requisition of the Commander-in-Chief, such arms, ordnance and ammunition as may be necessary for the use of the military forces so encamped or stationed. Ordnance to be furnished.

§ 170. The Quartermaster General shall, upon the requisition of the Commander-in-Chief, furnish such tents, camp equipage, or other state property as may be required for the use of the military forces so encamped or stationed, and shall also furnish the transportation necessary for conveying said forces to and from such camps or stations. Camp equipage.

§ 171. The Commissary General of subsistence shall, upon the requisition of the Commander-in-Chief, provide the subsistence necessary for said forces, such subsistence to conform in price and quantity to the ration prescribed by the general regulations for the army of the United States, and to be issued in kind. Subsistence

§ 172. The Commander-in-Chief is hereby authorized and empowered to draw his warrant upon the state treasury for such sum as shall be required by the engineer and quartermaster of said camps, forts or stations, in laying out and preparing the ground designated for such purpose, and in fur-

Expenses to be paid.

PART I.

nishing quarters for said forces and for the services of the officers, instructors and privates ordered to attend the same, also for all necessary expenses of said forces, including transportation and subsistence; such expenses to be audited by a board to consist of the Commander-in-Chief, Comptroller, State Treasurer and Inspector General.

Of Compensation for Military Services.

Compensation.

§ 173. The military forces of this state, when in the actual service of the state in time of war, insurrection, invasion, or imminent danger thereof, shall, during their time of service, be entitled to the same pay, rations and allowances for clothing as are or may hereafter be established by law for the army of the United States.

Rate of pay.

§ 174. There shall be paid to such officers, non-commissioned officers and privates as shall be specially ordered to attend encampments, and sea and lake coast defence duty in pursuance of the provisions of this act, not to exceed the following sum each, for every day actually on duty:

1. To all non-commissioned officers, musicians and privates, one dollar.
2. To all commissioned officers of the line below the rank of captain, two dollars.
3. To all commanding officers of companies, three dollars.
4. To all field officers, below the rank of colonel, four dollars.
5. To all commanding officers of regiments, five dollars.
6. To all regimental staff officers, two dollars and fifty cents, and to all non-commissioned staff officers, one dollar and fifty cents.
7. To all brigadier generals, six dollars.
8. To all brigade staff officers, four dollars.
9. To all major generals, eight dollars.
10. To all division staff officers, five dollars.
11. All mounted officers, and all members of any company of cavalry or artillery, mounted or equipped, shall receive one dollar per day for each horse actually used by them.
12. To each military store-keeper, such sum, not exceeding twenty-five dollars per annum, as the Commander-in-Chief shall think proper to allow.

Pay of staff.

§ 175. The staff of the Commander-in-Chief and the assistants in the several departments, in lieu of all compensation and allowances now provided by law in time of peace, when upon actual duty under the provisions of this act, either at drills, parades, encampments, lake and sea coast defence duty or otherwise, shall receive such compensation as is provided in this act for officers of the same rank, with their necessary and proper expenses, and those of their departments, to be paid by the state, upon the certificate of the Commander-in-Chief.

Compensation in case

§ 176. In case of war, insurrection, rebellion or invasion, or imminent danger thereof, when the military forces and volun-

teers of the state of New York, or any part thereof, shall be in the actual service of the state, or in the service of the United States, the staff of the Commander-in-Chief, while on duty, the assistants and clerks in the several staff departments, and such other officers as may be detailed by the Commander-in-Chief for the performance of any duties connected with the recruiting, mustering, enrolling, equipping, arming, organizing, paying, inspecting, providing and administering justice for such forces and volunteers shall, in lieu of all other allowances under this act, receive such reasonable and just compensation, not exceeding the full pay and allowances of officers of the same rank in the volunteer service of the United States, as the Commander-in-Chief shall deem proper, together with their necessary expenses and those of their departments, to be paid by the state upon the certificate of the Commander-in-Chief, showing a detailed statement of such services and expenses.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 545.

§ 177. Such clerks shall be employed in the several departments of the general staff of this state as shall be actually necessary for the public service, in the opinion of the Commander-in-Chief, and they shall receive, for the time they may be actually necessarily employed, such compensation as the Commander-in-Chief shall prescribe, not exceeding, however, in any case, the rate of twelve hundred dollars per annum.

Clerks to be
employed.

§ 178. The commanding officer of every uniformed company which shall have been ordered into camp, or to perform sea and lake coast defence duty, in accordance with the provisions of this act, shall, at the close of the term for which such company shall have been ordered to such camp or duty, make out an alphabetical list of the members of his company who shall have appeared and performed such duty, uniformed, armed and equipped as the law and regulations direct, and shall set opposite to each name the number of days each shall have performed duty, and the amount of pay each is entitled to receive for such service, and deliver the same, certified on oath to be correct and true, to the commanding officer of the camp or post, who shall immediately cause the same to be transcribed in a book or books to be kept by him for that purpose; such company commandant shall also set forth opposite to the name of each member of his company, whether such member is indebted to the state in any and what amount on account of his uniform and equipments.

Captain to
make out
list of
company.

§ 179. The commanding officer of the camp or post shall, also, at the close of the time for which each company, battery, battalion or regiment shall have been ordered to attend for duty thereat, make or cause to be made a complete roster or list of all commissioned officers and non-commissioned staff officers who shall have appeared and performed duty at such parade or encampment, uniformed, armed and equipped as the law and regulations direct, and shall set opposite to each name the number of days each shall have performed

List of
officers to
be made.

PART I.

duty at such encampment or post, and the amount of pay each is entitled to receive for such service, and shall immediately cause the said list to be transcribed in a book or books to be kept by him for that purpose.

Payment. § 180. The Commander-in-Chief shall draw his warrant upon the Comptroller for the amount which shall become due to officers, non-commissioned officers and privates, for services rendered at the drills and encampments for which payment is allowed by this act.

To be made annually. § 181. The Paymaster-General, or a division or brigade paymaster under his directions, shall, once in each year, visit the different regimental districts of this state, and shall pay to the officers, non-commissioned officers and privates, such sums as they may be entitled to receive therefor under this act.

Further rules for payment may be prescribed. § 182. The Commander-in-Chief shall have power to prescribe such further rules and regulations to provide for the more convenient payment of all sums which may become due to officers, non-commissioned officers and privates, under the provisions of this act; and the Paymaster-General, under the direction of the Commander-in-Chief, shall prepare the necessary forms and pay rolls, and cause the same to be transmitted to the commandants of such regiments, camps and posts.

Of the Regimental Fund and Regimental Boards of Auditors.

Duty of comptroller. § 183. The Comptroller shall annually draw his warrant upon the Treasurer in favor of the county treasurer of each county for the sum of five hundred dollars for each regiment, and the sum of two hundred and fifty dollars for each battalion, and the sum of one hundred dollars for each battery, certified by the Adjutant-General to be organized according to the provisions of this act within the county; or in case any regiment, battalion or battery is organized in two or more counties, then the Comptroller shall draw his warrant in favor of such county treasurer as the Adjutant-General may in his certificate direct, which sums, together with the fines collected from delinquent officers, non-commissioned officers, musicians and privates, shall constitute the military fund of each regiment, battalion or battery.

Board. § 184. There shall be a board of officers in each regiment, which shall consist of the commanding officer of the brigade, who shall be president thereof, and of the field officers of the regiment, and the senior captain therein, any three of whom shall form a quorum for business, the commanding officer of the brigade being one.

Meetings. § 185. The commandant of each brigade shall, from time to time as he shall deem necessary, convene the board of officers of each regiment created by this act.

Duties when convened. § 186. Such board, when so convened, shall audit all just claims on the military fund of such regiment for contingent expenses of the regiment, and shall make their order on the proper county treasurer, which shall require him to pay such order out of any money in his hands belonging to the military fund of such regiment.

Printing and pay of board. § 187. Such board may also direct such printing and publishing to be performed and executed as shall be necessary

for the best interest of the regiment and service; the members of such board shall be entitled to receive for each day's service, as such members, the sum of two dollars, for not more than three days in any one year; such sum to be certified and paid in the same manner. Such board shall enter their proceedings from time to time in a book to be kept for that purpose by each regiment.

§ 188. All county and city treasurers shall report to the brigadier-general, within the bounds of whose brigade he may reside, the amount of all moneys received by them, respectively, by the first days of April and December, annually, and the balance then remaining in their hands, and the number of the regiment to which the same belongs.

Treasurers
to report
moneys, &c.

OF THE COURTS OF INQUIRY AND COURTS MARTIAL.

Of the Courts of Inquiry and Courts Martial for the Trial of Officers.

§ 189. Courts of Inquiry may be instituted by the Commander-in-Chief, or the commanding officer of division or brigade, in relation to those officers for whose trial they are authorized to appoint courts martial for the purpose of investigating the conduct of any officer, either by his own solicitation or on a complaint or charge of improper conduct degrading to the character of an officer, or for the purpose of settling rank; but no such court shall consist of more than one officer, who may, if approved of by the officer ordering the court, require a judge-advocate to attend such court in taking testimony, and in investigating any complaint that may come before such court.

Courts how
constituted.

§ 190. Such court shall, without delay, report the evidence adduced, a statement of facts, and an opinion thereon, when required, to the officer instituting such court, who may in his discretion thereupon appoint a court martial for the trial of the officer whose conduct shall have been inquired into.

To report
evidence
without
delay.

§ 191. Every court martial for the trial of a major general shall be ordered by the Commander-in-Chief, and shall consist of five officers, any three of whom shall constitute a quorum.

Trial of
major
general.

§ 192. Every court martial for the trial of a brigadier general shall be ordered by the Commander-in-Chief, and shall consist of five officers, any three of whom shall constitute a quorum.

Brigadier
general.

§ 193. All other courts martial for the trial of commissioned officers shall consist of three officers, and shall be ordered, if for the trial of officers above rank of captain, by the commanding officer of division, and for all other officers, by the commanding officer of brigade.

Commis-
sioned off-
cers.

§ 194. No officer arrested shall be brought to trial unless a copy of the charges and specifications, certified by the officer ordering the arrest, shall be delivered to him, or left at his usual place of abode, within three days after his arrest; nor

Charges and
specifica-
tions to be
personally
served.

PART I.

unless the officer ordering such court martial shall have ordered the same within thirty days after receiving notice of the arrest, and a copy of the charges and specifications; nor until ten days after a copy of a list of the names of the officers detailed to form the court shall have been delivered to the officer arrested, or left at his usual place of abode.

Vacancies.

§ 195. The officer ordering the court may, at any time, supply any vacancy that, from any cause, may happen therein.

Proceedings in case of accusation before courts-martial.

§ 196. If the officer accused shall have any cause of challenge to any member of such court, he shall make the same at the time and in the manner provided by the military laws of the United States service and the practice of courts-martial. The arraignment of the accused, the proceedings, trial and record shall, in all respects, conform to the requirements of the United States law of court martial.

. As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 545.

Oath to be administered.

§ 197. After the court shall be assembled, and after all challenges, if any are made, shall have been determined, the judge advocate, whether commissioned or special, shall administer to each member the following oath: "You do swear (or affirm) that you will faithfully try and determine according to evidence the matter now before you, between the State of New York and the prisoner to be tried, and that you will duly administer justice according to the established rules of military law for the government of the military forces of this state, so help you God."

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 546.

Proceedings to be kept secret.

§ 198. Every judge advocate, whether commissioned or special, and every member of a court martial, shall keep secret the proceedings and sentence of the court until the same shall be approved or disapproved according to law; and shall keep secret the vote or opinion of any particular member of the court, unless required to give evidence thereof by a court of justice.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 546.

Effect of sentence.

§ 199. The sentence of any such court martial shall be according to the nature and degree of the offence, and according to military usage; but shall not extend farther, in time of peace, than cashiering the officer convicted, and disqualifying him from holding any office in the militia of this state, and imposing a fine not exceeding one hundred dollars.

When to be executed.

§ 200. The proceedings and sentence of every court martial shall, without delay, be delivered to the officer ordering the court, who shall approve or disapprove thereof within fifteen days thereafter, and shall give notice of his approval or disapproval to the president of such court martial and to the arresting officer, and he may, at his discretion, publish the sentence, as approved or disapproved, in orders; but no part of such sentence shall be executed until after the time allowed for appeal has expired.

Full proceedings to be sent to adjutant-general.

§ 201. He also shall transmit such proceedings and sentence, and his approval or disapproval thereof, to the Adjutant-General, to be kept in his office.

Appeal.

§ 202. The right of appeal to the Commander-in-Chief, as it now exists by military usage, is reserved; but no appeal shall be received, unless made within twenty days after the

decision appealed from is made known to the person appealing.

§ 203. There shall be allowed and paid out of the treasury, on the certificate of the president and the judge advocate, on the approval of the judge advocate-general, to each division, brigade and special judge advocate, and to the president and members of any court of inquiry or court martial for the trial of officers, two dollars for each day actually employed on duty; and the like compensation to every marshal appointed by any such court for every day employed in the execution of the duties required of him. In important cases a reasonable compensation may be paid to any stenographer employed by the court, whose services shall be certified in like manner.

Compensation for services on courts.

As amended by Laws of 1865, ch. 612. Post, vol. 8, p. 546.

§ 204. The accounts of all persons who under this article are entitled to be paid out of the treasury, shall be audited by the comptroller, who shall, on the application of the governor, draw his warrant on the treasurer for such sums of money as may be requisite in the execution of the provisions of this act; and may require the chief of each staff department to account quarterly for all money received by him for the purposes connected with his department.

Accounts to be audited.

Of Regimental and Battalion Courts Martial.

§ 205. The commandant of each brigade may at any time appoint a regimental or battalion court martial for any regiment or battalion in his brigade, to consist, if practicable, of a field officer or captain.

Court to consist of field officer or captain.

§ 206. The appointment of said court shall be published in orders at least three weeks previous to the convening of the court; and the officer appointing said court shall fix the day on which it shall convene, and when convened the court may adjourn from time to time, as shall become necessary for the transaction of business, but the whole session of the court, from the day on which it shall convene until its dissolution, shall not exceed three weeks.

Appointment of court to be published.

§ 207. In case any vacancy shall happen in the court, or a new court shall be required, the officer ordering the court, or his successor in command, may fill such vacancy or order a new court.

Vacancy

§ 208. The officer constituting such court, before he shall enter on his duties as such, shall take the following oath: "I, do swear that I will well and truly try and determine, according to evidence, all matters between the people of the State of New York and any person or persons which shall come before the regimental (or battalion) court martial to which I have been appointed."

Oath.

§ 209. Such oath shall be taken by the president, on or before the day on which the court shall convene, before a justice of the county in which he may reside, or a field officer of his regiment or battalion; and it shall be the duty of such justice or field officer to administer the oath without fee or reward.

Before whom taken.

§ 210. Such court shall direct a non-commissioned officer, or other fit person or persons, to be by him designated to summon all delinquents and parties accused to appear before

Summons to accuse parties.

PART I.

the court, at a time and place to be by him appointed, which service shall be personal or by leaving such summons at the residence of such parties.

Return.

§ 211. Such non-commissioned officer, or other person or persons so designated, shall make the like return, and with like effect as commissioned and non-commissioned officers are authorized and required to make, in cases of warning to a company or regimental parade, and shall be subject to the like penalties for neglect of duty.

Jurisdiction.

§ 212. The court, when organized, shall have the trial of all offences, delinquencies and deficiencies in the regiment or battalion for which it shall have been called, and shall have power to impose and direct to be levied all the fines to which non-commissioned officers, musicians or privates are declared to be subject by the provisions of this act.

Appeal.

§ 213. From the sentence of any such court, imposing a fine for any offence, delinquency or deficiency, an appeal if made within twenty days, shall be allowed to the officer instituting the court, or to his successor in command, who may remit or mitigate such penalty or fine.

Compensation.

§ 214. There shall be allowed and paid out of the military fund of said regiment:

1. To the officer constituting said court, a sum equal to one day's pay for field duty, for each day he may be actually employed in holding the court or engaged in the business thereof or in traveling to or from the court, allowing thirty miles for a day's travel.

2. To the non-commissioned officer or other person who shall have summoned delinquents to appear before the court, one dollar and twenty-five cents for each day he may have been necessarily so employed, and the same sum for each day of his attendance on the court.

3. Each officer to whom a warrant for the collection of fines may be directed, shall be entitled to the same fees and be subject to the same penalties for any neglect, as are allowed and provided for on executions issued out of justices' courts.

4. For all other services and commitments under this act, the sheriff, jailor and constables executing the same shall be entitled to the like fees as for similar services in other cases.

Fines to whom paid.

§ 215. All fines and penalties imposed by any regimental or battalion court martial shall be paid, by the officer collecting the same, to the treasurer of the county within which the officer instituting the court may reside, and shall belong to the military fund of such regiment.

Of the Imposition of Penalties and Fines for Violating the Provisions of this Act.

Penalties on commissioned officers.

§ 216. In time of peace, every commissioned officer, for disobedience of orders, neglect or ignorance of duty, unofficer like conduct or disrespect to a superior officer, or for neglecting to furnish himself with a uniform and equipments within

six months after receiving his commission, shall be arrested and brought to trial before a court martial, who may, on conviction, sentence him to be cashiered, incapacitated from holding any military commission, or fined to an amount not exceeding one hundred dollars, or to be reprimanded, or may sentence him to all or either of such penalties, in their discretion.

§ 217. Every commissioned officer refusing to pay over moneys in his hands, as is directed by the provisions of this act, shall be liable to be tried and cashiered, or otherwise punished therefor, by a court martial. Neglect to pay over moneys.

§ 218. Every commissioned officer, and every non-commissioned officer, musician and private shall on due conviction, be subject for the following offences to the fines thereto annexed: Fines.

1. Every non-commissioned officer, musician and private, for non-appearance, when duly warned or summoned at a company parade, a fine of two dollars; at a regimental or battalion parade or encampment, not less than three nor more than six dollars; and at a place of rendezvous, when called into actual service, a sum not exceeding twelve months' pay, nor less than one month's pay.

2. Every commissioned officer, for non-attendance at any parade or encampment, and every such officer, non-commissioned officer, musician and private neglecting or refusing to obey the orders of his superior officers on any day of parade or encampment, or to perform such military duty or exercise as may be required, or departing from his colors, post or guard, or leaving his place or ranks without permission, a fine not more than one hundred nor less than five dollars.

3. For neglecting or refusing to obey any order or warrant to him lawfully given or directed, or to make a proper return thereof, if such return be necessary, or making a false return, or neglecting or refusing, when required, to summon a delinquent before a court martial, or duly to return such summons, a fine not more than one hundred nor less than five dollars.

§ 219. Every commissioned officer, for neglecting or refusing to act as such when duly elected and commissioned, may be sentenced to pay a fine not less than ten dollars; every non-commissioned officer, for neglecting or refusing to act as such when duly appointed and warranted, may be sentenced to pay a fine not less than five dollars; and every non-commissioned officer for neglect of duty or disorderly or unofficer like conduct, in addition to other penalties, may be reduced to the ranks by the commandant of the company, with the approbation of the commandant of the regiment or battalion. Refusal to act when elected.

§ 220. Every non-commissioned officer, musician or private, who shall unlawfully discharge any fire-arms within two miles of any parade, on the day thereof, shall be sentenced to pay a fine of one dollar. Discharge of fire-arms.

PART I.
Retaining
commission

Appearing
in ludicrous
dress.

§ 221. Any commissioned officer who shall retain a commission received by him for any subaltern for more than thirty days, without giving notice by mail or otherwise to the person entitled to it, shall be liable to pay a fine not exceeding twenty-five dollars to be imposed by the proper court martial on the complaint of any officer interested. In addition to the penalties imposed by any of the provisions of this act, every commissioned and non-commissioned officer, musician and private of a company or troop, or any other person who shall appear at any parade or encampment wearing any personal disguise or other unusual or ludicrous article of dress, or any arms, weapons or other implements not required by law, and calculated to excite ridicule or to interrupt the orderly and peaceable discharge of duty by those under arms, shall be liable to a fine of not more than twenty-five and not less than five dollars, to be imposed by the proper court martial.

15 W., 451.

Excuse for
delin-
quency.

§ 222. The court martial by which any delinquent is tried, may excuse such delinquent, if it shall be made satisfactorily to appear to the court that he has a reasonable excuse for such delinquency.

Member of
court mar-
tial exempt
from suit.

§ 223. No action shall be maintained against any member of a court martial, or officer or agent acting under its authority, on account of the imposition of a fine, or the execution of a sentence on any person, if such person shall have been returned as a delinquent and duly summoned, and shall have neglected to appear and render his excuse for such delinquency, or show his exemption before such court.

Security for
costs.

§ 224. When a suit or proceeding shall be commenced in any court by any person against any officer of this state for any act done by such officer in his official capacity, in the discharge of any duty under this act, or against any person acting under authority or order of any such officer, or by virtue of any warrant issued by him pursuant to law, or against any collector or receiver of taxes, the defendant may require the plaintiff in such suit to file security for the payment of the costs that may be incurred by the defendant in such suit or proceeding, and the defendant, in all cases, may plead the general issue, and give the special matter in evidence, and in case the plaintiff shall be non-prossed or non-suited, or have a verdict or judgment against him, the defendant shall recover treble costs.

Of the Collection of Fines and Penalties.

Collection
of fines.

§ 225. For the purpose of collecting such fines as may be imposed by any court martial authorized by this act, the president of the court shall, within thirty days after the fines have been imposed, make a list of all the persons fined, designating the company to which they respectively belong, and the sums imposed as fines on each person, and shall draw his warrant under his hand and seal, directed to any marshal.

sheriff or constable of any city or county (as the case may be), thereby commanding him to levy such fine or fines, together with his costs, of the goods and chattels of such delinquents. No property shall be exempt from the payment of such fines.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 546.

§ 226. It shall be the duty of the jailor to whom such delinquent may be delivered, to keep him closely confined, without bail or mainprise, for two days, for any fine not exceeding two dollars, and two additional days for every dollar above that sum, unless the fine, together with the costs and the jailor's fees, shall sooner be paid; but no non-commissioned officer, musician or private shall be imprisoned for the non-payment of such fine or fines, for a period exceeding ten days.

Arrest of delinquent.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 546.

Sec. 228 repealed by Laws of 1865, ch. 612. Post, vol. 6, p. 549.

§ 227. Every such marshal, sheriff or constable to whom any list and warrant shall be directed and delivered, may execute the same by levying and collecting the fines within forty days from the receipt of such warrant, and make return thereof to the officers who issued the same.

Officer to make returns.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 549.

Sec. 228 repealed by Laws of 1865, ch. 612. Post, vol. 6, p. 549.

§ 229. Any warrant for the collection of fines, issued by virtue of this chapter, shall and may be renewed in the same manner that executions issued from justices' courts may by law be renewed.

Warrants renewed.

§ 230. The amount of any fines so collected shall be paid by the officer collecting the same into the county treasury, and shall form a portion of and be credited to the regimental fund of the regiment to which the person so fined belonged.

Fines to be paid into the county treasury.

§ 231. In addition to the bond now required by law to be given by the marshal, sheriff, constable or other officer, for the faithful discharge of his duties, such named officers shall execute a bond for the payment of all moneys by them collected, under the provisions of this act; and the sureties of such officers, hereby authorized to collect fines and penalties, shall be liable for any official delinquency under this act. Such bonds to be approved by the county judge of each county.

Additional bond required.

PART I.

General Provisions applicable to all Courts Martial and Courts of Inquiry.

Subpoenas.

§ 232. The president of every court martial and of every court of inquiry, both before and after he shall have been sworn, and also the judge advocate, if required, shall issue subpoenas for all witnesses whose attendance at such court may, in his opinion, be necessary in behalf of the people of this state, and also an application for all witnesses in behalf of any officer charged or accused, or persons returned as delinquent; and may direct the commandant of any company to cause such subpoena to be served on any witness or member of his company.

Administering oaths.

§ 233. The president of such court martial or the court of inquiry shall have power to administer the usual oath to witnesses, and shall have the same power to compel attending witnesses to be sworn and testify, and to preserve order, as courts of common law jurisdiction; and all sheriffs, jailors and constables are hereby required to execute any precept issued by such president or court for that purpose.

Fine for disobeying subpoena.

§ 234. Every witness not appearing in obedience to such subpoena when duly served, personally, with a copy of the same, and not having a sufficient or reasonable excuse, shall forfeit to the people of this state a sum not less than ten nor more than fifty dollars; and the president of such court shall, from time to time, report to the district attorney the names of all such delinquent witnesses, together with the names and places of residence of the persons serving such subpoena, the better to enable him to prosecute for such forfeiture.

Attachment to compel attendance.

§ 235. Whenever it shall appear to the satisfaction of any court martial or court of inquiry, by proof made before such court, that any person duly subpoenaed to appear as a witness before said court, shall have refused or neglected without just cause to attend as such witness in conformity to such subpoena, and the party in whose behalf such witness shall have subpoenaed shall make oath that the testimony of such witness is material, such court, or the president thereof, shall have power to issue an attachment to compel the attendance of such witness.

How executed and costs of.

§ 236. Every such attachment shall be executed in the same manner as a warrant, and by any officer authorized to execute warrants, and the fees of the officers serving the same shall be paid by the person against whom the same shall have been issued, unless he shall show reasonable cause, to the satisfaction of such court, for his omission to attend; such costs shall be ascertained by the court, who may thereupon issue an execution for the collection against the person liable to pay the same, and which may be collected as other executions are collected, and by any officer authorized to collect executions issued from courts of justice.

Disorderly conduct.

§ 237. Any person or persons who shall be guilty of disorderly, contemptuous or insolent behavior in, or use any insult-

ing or contemptuous or indecorous language or expressions to or before any court martial or court of inquiry, or any member of either of such courts, in open court, intending to intercept the proceedings or to impair the respect, the authority of such courts, may be committed to the jail of the county in which said courts shall sit, by warrant under the hand and seal of the president of such court.

§ 238. Such warrant shall be directed to the sheriff or any or either of the constables and marshals of any such county, or any officer attending the court, and shall set forth the particular circumstances of the offence adjudged to have been committed; and shall command the officer to whom it is directed to take the body of such person and commit him to the jail of the county, there to remain without bail or mainprize, in close confinement, for a time to be limited, not exceeding three days, and until the officer's fees for committing, and the jailor's fees be paid.

Warrant,
how served.

§ 239. Such sheriff shall receive the body of any person who shall be brought to him by virtue of such warrant, and keep him until the expiration of the time mentioned in the warrant, and until the officer's and jailor's fees shall be paid, or until the offender shall be discharged by due course of law, unless sooner discharged by any judge of a court of record, in the same manner and under the same rules as in cases of imprisonment under process for contempt from a court at law.

Duty of
sheriff.

§ 240. In the absence of the president of any court martial, the senior officer present may preside, with all the powers of the president; and all the members of such courts shall, when on duty, be in full uniform.

Senior officer to
preside in ab-
sence of
president.

§ 241. The president of any court martial or any court of inquiry may appoint, by warrant under his hand and seal, one or more marshals.

Marshals.

§ 242. The marshals so appointed may not only perform the usual duties of such marshals, but may also execute all process lawfully issued by such president or court, and perform all acts and duties in this act imposed on and authorized to be performed by any sheriff, marshal or constable.

Their
powers.

§ 243. Whenever the sentence of any regimental or battalion court martial shall be appealed from, the officer hearing the appeal shall require the court, or the president thereof, to furnish him forthwith with a statement of the case, and of the evidence touching the same; which statement and evidence shall, in case of an appeal to the commanding officer of the brigade, be forthwith, on notice of such appeal, transmitted to him. As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 547.

Appeals
from
sentences.

§ 244. Such statement being furnished, the officer hearing the appeal may hear such further evidence, by affidavit or otherwise, as the nature of the case may require, and for that purpose he shall have power to administer oaths to witnesses produced before him, and order depositions of such witnesses as cannot reasonably be produced at the hearing of such appeal. As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 547.

Hearing of
appeals.

PART I.

§ 245. The last two sections shall extend to appeals made from the order of an officer approving the sentence of a court martial.

Renewal of warrants.

§ 246. If any officer having a warrant for the collection of any fine, shall not be able to collect the fine within the time specified therein, then the officers issuing the warrant may, at any time thereafter, within two years from the time of imposing the fines, issue a new warrant against any delinquent, or renew the former warrant, from time to time, as may become necessary.

Ibid.

§ 247. Any warrant for the collection of fines, issued by virtue of this act, shall and may be renewed in the same manner that executions issued from justice's courts may by law be renewed.

Marshals, sheriffs and constables to be prosecuted for neglect.

§ 248. It shall be the duty of the respective presidents of courts martial to prosecute, in the name of the people of the State of New York, any marshal or constable, sheriff and their sureties, who shall incur any penalty for neglect in the execution or return of any warrant, or in paying over moneys collected by him.

President of court.

§ 249. Whenever any court martial shall consist of one person, he shall be deemed the president thereof within the meaning of this act.

Chiefs of staff to make returns of delinquents.

§ 250. The chief of the staff in each division, regiment or battalion, shall, on or before the first day of November in each year, return to the commandants of division and brigade, respectively, the names of all commissioned officers absent from any parade, encampment or drill which they shall be required by law to attend. Within ten days after the receipt of such returns, the respective commandants of division or brigade, as the case may be, shall order a court martial, to consist of three commissioned officers, without regard to rank, to pass upon such delinquency. It shall not be necessary to cause the arrest of such absentee, nor to serve any charges, unless, in the discretion of the officer ordering the court, it may be proper; but the delinquent may be fined, pursuant to the provisions of this act, provided notice of the return and of the time appointed for holding the court martial shall have been delivered to him or left at his usual place of abode at least ten days before the assembling of said court.

Delinquents to be court-martialed.

Excuses.

§ 251. The court may excuse any such delinquent for good cause shown.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 547.

Offences against by-laws.

§ 252. Any fine for offences against the by-laws of any company of the national guards or of regimental boards, not exceeding the sum of twenty-five dollars, a certified copy of the proceedings relating to the infliction of which has been returned to any regimental court-martial or court of appeals, may be enforced by such court in the manner hereinbefore provided, due notice being given to the delinquent, and further provided that a certified copy of said by-laws be filed with the commandant of the regiment.

CHAP. X.
Regulations of
United
States army
to govern.

§ 253. Whenever any portion of the military forces of this state shall be ordered to assemble for purposes of military instruction, under the authority of the Commander-in-Chief, or whenever any part of the state forces shall be ordered to assemble, under his authority, in time of war, insurrection, invasion or public danger, the rules and articles of war, and general regulations for the government of the army of the United States, so far as they are applicable, and with such modifications as the Commander-in-Chief may prescribe, shall be considered in force and regarded as a part of this act, during the continuance of such instruction, and to the close of such state of war, invasion, insurrection or public danger; but no punishment under such rules and articles which shall extend to the taking of life shall, in any case, be inflicted, except in time of actual war, invasion or insurrection, declared by proclamation of the governor to exist.

OF THE DUTIES OF CERTAIN STAFF OFFICERS, AND OF VARIOUS MATTERS CONNECTED WITH THEIR VARIOUS RESPECTIVE DEPARTMENTS.

Of the Adjutant General.

§ 254. The Adjutant General shall keep a roster of all the officers of the military forces of this state, containing the date of their commissions, their ranks, the corps to which they belong, the division, brigade and regiment of such corps, and the places of their residence, as accurately as can be ascertained, which roster shall be revised and corrected every year.

Roster of
officers.

§ 255. He shall also enter in a book, to be kept for that purpose, a local description of the several company, regimental, brigade and division districts.

Description
of
districts.

§ 256. It shall be the duty of the commandants of divisions and brigades, to furnish the Adjutant General with a roster of their officers, containing the facts requisite to enable him to comply with the provisions of this act.

Roster of
divisions
and
brigades.

§ 257. The books required by the Adjutant General to comply with this act, shall be furnished him at the expense of this state, and shall go to his successors in office.

Books.

§ 258. The seal now used in the office of the Adjutant General shall continue to be the seal of his office, and shall from time to time be delivered to his successor in office; and all copies of records or papers in his office, duly certified and authenticated under the said seal, shall be evidence in all cases, in like manner as if the originals were produced.

Seal.

§ 259. It shall be the duty of the Adjutant General to cause so much of the militia laws as shall at any time be in force to be printed in proper form, from time to time, and to distribute one copy to each commissioned officer, and to each town clerk, supervisor's clerk and county treasurer in this state; and also, to prepare and cause all necessary blank books, forms and notices to be transmitted at the expense of this state, to carry into full effect the provisions of this act;

Printing
and distri-
bution of
militia laws

To furnish
blank
books,
forms, &c.

PART I.

Inspection
of camp
equipage.

Sale and
proceeds of
condemned
property.

Annual
report.

Matters
referred
to him.

Reports to
be made to
him when
required.

To visit en-
campments.

To give in-
structions.

To examine
books and
accounts of
auditors.

tion of any armory, arsenal or military storehouse, if he find the property which ought to be kept therein, or any part of it, missing, injured, unfit for use, or deficient in any respect, he shall forthwith report the facts, in respect thereto, to the Commander-in-Chief.

§ 273. It shall be his duty, after the first day of November in each year, to inspect the tents and camp equipage belonging to the state, and report any deficiency therein, or any damaged property or unfit for use, to the Commander-in-Chief on or before the first day of January next thereafter. Upon receiving the reports mentioned in this and the last preceding section, the Commander-in-Chief may order such property to be sold at public auction, upon thirty days' notice to be published once a week in the state paper, and also in some newspaper printed in the county in which such property is situated, to the highest bidder, under the direction of the Commissary-General of ordnance, and the net avails thereof shall be paid into the treasury to the credit of the militia fund.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 547.

§ 274. In his annual report he shall state what general and field officers have been in command of parades and encampments, what changes of general or field officers have been made, and what degree of improvement has been attained by both officers and men, and whether the general regulations have been observed, together with such suggestions as he may see fit to make.

§ 275. To the Inspector-General will be referred, by order of the Commander-in-Chief, such matters as require an examination at a distance from the general headquarters, for the information of the Commander-in-Chief, and it shall be the duty of Inspector-General, upon such reference, to report upon the qualifications of persons named to the Commander-in-Chief for appointment to military office, and also upon the possession of the necessary requisites by the applicants for the organization of companies.

§ 276. The division and brigade inspectors, whenever required by the Inspector-General, shall report to him the condition of their respective divisions or brigades, and shall also, upon his request, report to him upon any matter properly belonging to his department, which may require examination within their respective division or brigade districts.

§ 277. The Inspector-General shall visit the several encampments which shall be ordered by the Commander-in-Chief, and to ascertain whether the troops have been properly instructed in the exercises and evolutions of the field; he will cause them to be exercised in the manœuvres required to be practiced during the year, as prescribed by the regulations; and he will give his instructions, as to the exercises, to the commanding officer, who will issue all necessary orders and directions to the troops for their execution.

§ 278. The Inspector-General shall, at least once in every two years, examine the book of proceedings of the board of auditors of each regiment, and the accounts filed with the secretary of such board during the two years previous, or since the last examination made by the Inspector-General, and he shall carefully compare the book of proceedings with accounts; he shall also examine the warrants drawn by the board of auditors, in the possession of the county treasurer; and he shall specially report to the Commander-in-Chief whether the proceedings of the board of auditors are regularly

and properly entered, and whether the warrants are in due form; and whether any military funds have been drawn from the county treasurer for improper purposes, or by persons not entitled thereto.

§ 279. The Inspector General is hereby authorized to appoint an assistant, who shall have the rank of colonel, and be commissioned by the Commander-in-Chief, and who shall hold such office, during the pleasure of the Inspector General, and shall receive the same compensation as the assistant adjutant general. In the absence of the Inspector General from the city of Albany, or in case of his inability to perform his duties, his assistant shall have full power to perform all duties appertaining to the office of the Inspector General. But nothing in this section shall be so construed as to give any validity to the acts of said assistant in case of the disapproval of the Inspector General.

Assistant.

Of the Judge-Advocate General.

§ 280. The Judge-Advocate General, as chief of his department, is charged with the supervision, care and management of all things relating to the administration of justice among the military forces of this state. He shall diligently scrutinize and examine the proceedings of all courts martial where an appeal has been taken and report thereon for the information of the Commander-in-Chief; he shall also, in like manner, report in all cases of disputed elections where an appeal has been taken. Under the orders of the Commander-in-Chief, the Judge-Advocate General shall act as judge advocate at any court-martial where the public interests shall require his attendance.

To examine all cases that have been appealed.

§ 281. The Judge-Advocate General is the legal adviser of the several staff departments, upon all legal questions which may arise therein, and to him may be referred for supervision all contracts, agreements or other instruments to be drawn or executed in the course of the business of such department.

Legal adviser of staff departments.

§ 282. The officers of the Judge-Advocate General's department, when not engaged in the special duties of the same, may be detailed for such other staff duty as the commandants of their respective brigades or divisions shall direct.

Details for staff duties.

OF INVASION, INSURRECTION, BREACHES OF THE PEACE, AND DRAFTS OF THE MILITIA.

Of Invasion and Insurrection.

§ 283. In cases of insurrection or invasion, or imminent danger thereof, the Commander-in-Chief may, by proclamation or otherwise, order and direct the commandants of such company districts as he shall designate to accept sufficient volunteers, should the same offer, to raise said company and maintain the same at the maximum number provided by law, and if sufficient volunteers should not offer, then a sufficient number shall be drafted from the reserve militia of said districts in the manner hereinafter provided, who shall thereupon

Volunteers to be accepted.

Drafting.

PART I.

Acts of
Governor
confirmed.

be enrolled as national guards in said company, and shall be liable to duty in case the military forces of the state should be called into service.

§ 284. The Commander-in-Chief shall have power, in case of insurrection or invasion, or imminent danger thereof, to order into the service of the state such number and description of companies or regiments of the national guard, or of other militia of the state as he shall deem proper, and under the command of such officers as he shall direct; and in such case the forces so called into service shall receive the same pay and rations as troops in the service of the United States. And all the acts, proclamations and orders of the Governor of this state, since the sixteenth day of April, eighteen hundred and sixty-one, relating to the calling out of the militia or volunteers from this state for the service of the United States, are hereby approved, and in all respects legalized and made valid, to the same intent and with the same effect as if they had been issued and done with the previous express authority and direction of the legislature of this state, and all commissions issued or hereafter to be issued to the officers of such volunteer forces by the Governor of this state, in accordance with the act of congress in such cases made and provided, are hereby confirmed.

Invasion.

§ 285. In case of any invasion, or of imminent danger thereof, within the limits of any division, brigade, regiment or battalion, it shall be the duty of the commandant of such division, brigade, regiment or battalion to order out, for the defence of the state, the militia of any part thereof, under his command, and immediately report what he has done to the Commander-in-Chief, through the Adjutant-General.

Notice to be
given.

§ 286. It shall also be his duty to give immediate notice of such invasion, and of the circumstances attending the same, to his immediate commanding officer, by whom such information shall be transmitted, with the utmost expedition, to the Commander-in-Chief.

Regiments
to be as-
sembled.

§ 287. The commandant of every regiment or battalion, within the limits of which an insurrection may happen, shall immediately assemble his regiment or battalion, under arms, and with the utmost expedition shall transmit information of such insurrection to the commandant of his brigade and to the Commander-in-Chief.

Notice to
judge.

§ 288. He shall also give immediate notice of such insurrection to any judge of the county in which it shall happen, and shall take such measures for its suppression as to such judge shall appear most proper and effectual.

Judge may
order addi-
tional force.

§ 289. If the said judge shall deem a greater force requisite to quell the insurrection, he shall require such additional force as he may deem necessary from the commandant of the division, or of any brigade therein whose duty it shall be to obey his requisition.

§ 290. Every person who, whilst in the actual service of this state, shall be wounded or disabled in opposing or suppressing any invasion or insurrection, shall be taken care of and provided for at the expense of the state.

CHAP. I.
Wounded
or disabled
men.

Of Riots, Tumults, Breaches of the Peace and Resistance to Process.

§ 291. In case of any breach of the peace, tumult, riot or resistance to process of this state, or apprehension of imminent danger of the same, it shall be lawful for the sheriff of any county, or the mayor of any city, to call for aid from any division, brigade, regiment, battalion or company; and it shall be the duty of the commanding officer of such division, brigade, regiment, battalion or company, to whom such order is given, to order out, in aid of the civil authorities, the military force or any part thereof under his command.

Suppression
of
riots, &c.

§ 292. In such case it shall not be necessary for commandants of companies to issue written orders or notices for calling out their men, but verbal orders and notices shall be sufficient.

Verbal
orders.

§ 293. It shall be the duty of the commanding officer of any division, brigade, regiment, battalion or company, in all cases when so called into service, to provide the men of his command, so ordered out, with at least twenty-four rounds of ball cartridge, and arms in complete order for actual service.

Militia how
to be armed.

§ 294. Such officer shall be subject, as provided by law, to the sheriff or public officer who shall so require his aid; and for refusing or neglecting to obey the order of such sheriff or public officer so requiring service, or for interfering or in any way hindering or preventing the men of his command from performing such duty, or in any manner, by neglect or delay, preventing the due execution of law, every such commanding officer, and every commissioned officer under his command so offending, shall be liable to a fine of not less than one hundred nor more than five hundred dollars, and imprisonment in the county jail for a period not exceeding six months.

Officer to be
subject to
sheriff.

§ 295. It shall be the duty of the district attorney of any county where such offence shall be committed to prosecute the same; and in addition thereto, such officer shall be liable to be tried by court martial and sentenced to be cashiered and incapacitated forever after from holding military commission in this state.

Disobedi-
ence, how
punished.

§ 296. Any non-commissioned officer, musician or private who shall neglect or refuse to obey the orders of his commanding officer in the case above provided for, shall be liable to a fine of not less than twenty-five nor more than one hundred dollars, and imprisonment in the county jail for a period not to exceed three months, to be prosecuted and recovered in the manner hereinbefore provided in the case of commissioned officers.

Penalty.

§ 297. All officers, non-commissioned officers and privates, in cases of riot, tumult, breach of the peace, resistance to pro-

Compensa-
tion.

PART I.

cess, or whenever called upon in aid of the civil authorities, shall receive the compensation provided by an act entitled "An act to enforce the laws and preserve order," passed April fifteenth, eighteen hundred and forty-five, which continues in force, and shall be published with this act; and every person who shall be wounded or disabled in such service, shall be taken care of and provided for at the expense of the county where such service shall be rendered.

Of Drafts of the Militia.

Lots to be drawn.

§ 298. Whenever the Commander-in-Chief shall order a draft from the reserved militia of any company district, to raise the company of the national guard therein and to maintain the same at either the minimum or maximum number provided by this act, or whenever a general draft of the militia shall be made by order of the Commander-in-Chief, or of the President of the United States, such draft shall be determined by lot, to be drawn by the clerk of the county in which such roll has been filed, in the presence of the county judge and the mayor of any city, or the supervisor of any town or ward, upon the requisition of any commanding officer of the regiment within whose bounds such person may reside.

Exception of drafted persons.

§ 299. Any person so drafted may, within ten days after receiving such notice of the same, present to the commandant of the regiment, independent battery or battalion, his certificate of exemption by reason of physical disability, from some surgeon or assistant surgeon of the national guard, or other due and sufficient proof of his non-liability to military duty, and if such certificate or proof shall be sufficient and satisfactory, such person shall be discharged and another person shall be drafted in his stead, in accordance with the provisions of this act. The necessary expenses for serving notices upon drafted persons shall be a county charge upon the county in which such drafted persons shall reside respectively, and shall be audited and paid in the same manner as other county charges are audited and paid.

As amended by Laws of 1865, ch. 612. Post, vol. 6, p. 547.

Substitutes.

§ 300. Any person so drafted, in accordance with the above provisions, may offer a substitute at the time of the rendezvous of the drafted military force and militia, and such substitute, if he shall be an able-bodied man, of the age of twenty-one years and upwards, and shall consent in writing to subject himself to all the duties, fines, forfeitures and punishments to which his principal would have been subject had he personally served, shall be accepted by the commandant of the company of drafted militia to which his principal may belong. Any person so drafted, who may be a member of any religious denomination whatever as from scruples of conscience may be averse to bearing arms, shall be excused from said draft on payment to the clerk of the county by whom such draft is made, the sum of three hundred dollars, to be by the said county clerk paid to the comptroller of the state, to be applied to the purposes mentioned in this act.

As amended by Laws of 1863, ch. 425. Post, vol. 6, p. 154.

Draft, how made.

§ 301. Whenever the President of the United States or the Commander-in-Chief shall order a draft from the militia for public service, such draft shall be made in the following manner:

1. When the draft required to be made shall be a number equal to one or more companies to each brigade, such draft shall be made by company, to be determined by lot, to be drawn by the commandant of brigade in the presence of the commanding officers of the regiments composing said brigade from the military forces of the state in his brigade, organized, uniformed, armed and equipped according to the provisions of this act.

2. In case such draft shall require a number equal to one regiment, such shall be determined by lot in the manner above prescribed.

3. In case such draft shall require a larger number than the whole number of men composing the military force of said brigade, such additional draft shall be made of the requisite number to supply such deficiency from the military roll of the reserve militia of each town or ward filed in the office of the city, village or town clerk, as hereinbefore provided.

§ 302. The Commander-in-Chief shall prescribe such rules, orders and regulations, relative to the distribution of arms, ammunition and military stores, to the militia when called into actual service as he may deem proper. Distribution of arms

§ 303. The command of any military force, called into service under the provisions of this title, shall devolve upon the senior officer of such force, unless otherwise specially ordered by the Commander-in-Chief. Senior officer to command.

Of the Military Fund of the State and Appropriations for Military Purposes.

§ 304. The moneys received from the several county treasurers, under the provisions of this act, shall be kept separate and apart from the current and ordinary finances of this state, and shall be applied to the purposes mentioned in this act and to no other. Moneys to be kept separate.

§ 305. For the purchase of uniforms and equipments, pay of officers and privates and other expenditures authorized by this act, the sum of three hundred thousand dollars is hereby appropriated from the moneys mentioned in the last preceding section, and from any other moneys in the treasury not otherwise appropriated. Appropriation.

Miscellaneous Provisions.

§ 306. The Commander-in-Chief is hereby authorized to establish and prescribe such rules, regulations, forms and precedents as he shall deem proper for the use and government of the military forces of the state, and to carry into full effect the provisions of this act. Such rules, regulations, forms and precedents shall be published in orders by the Adjutant General, and, from time to time, distributed to the commissioned officers of the state. Rules and regulations.

§ 307. Whenever any non-commissioned officers, musicians or privates of any uniformed company or troop, shall have performed service in any such company or troop for the space of seven years from the time of his enlistment therein, properly uniformed according to the provisions of law, he shall be furnished, on application, by the commanding officer of such company or troop, with a certificate, duly setting forth such facts, which shall, for all purposes, be deemed prima facie evidence thereof. Certificate of seven years service.

PART I.
Certificate
of member-
ship.

§ 308. The commanding officer of every uniform company or troop, shall, on the application of any commissioned, non-commissioned officer, musician or private of his company, deliver to him a certificate, stating that such person is a member of his company, and whether he is uniformed according to law, and how recently he may have performed duty in said company. Such certificate, when dated within six months, shall be deemed for all purposes prima facie evidence of the matters therein stated.

Arms, &c.
exempt
from sale or
taxation.

§ 309. Every officer, non-commissioned officer, musician and private of the uniform militia of this state, who shall have provided himself with a uniform, arms or accoutrements required by law or regulations, shall hold the same exempt from all suits, distresses, executions or sales for debts, or for the payment of taxes; and every mounted officer, and every member of a troop of cavalry or light artillery, who shall own a suitable horse necessary for his use as such officer or member, shall hold the same with the like exemption.

Rules and
regulations.

§ 310. The rules and regulations, prepared by a board of officers under section one of title nine of the militia law, passed April seventeen, eighteen hundred and fifty-four, with such changes and modifications as are provided in this act, having received the approval of the Commander-in-Chief, are hereby ratified and confirmed, and the Commander-in-Chief is hereby authorized to make such changes and alterations in said regulations, from time to time, as he may deem expedient.

Ordnance
sergeants.

§ 311. The commandants of regiments may appoint ordnance sergeants as keepers of armories, not exceeding one to each armory, who shall be under the authority and hold office during the pleasure of the commandant; such ordnance sergeants shall be paid as now provided for keepers of armories.

Exemption
from civil
process.

§ 312. No person belonging to the military forces shall be arrested on any civil process while going to, remaining at, or returning from any place at which he may be required to attend for military duty.

Military
property
belonging
to the state.

§ 313. Any person who shall purchase, retain, or have in custody or possession without right any military property belonging to this state marked as, or known to him to be such, and shall, after proper demand, refuse to deliver the same to any officer entitled to the possession thereof, shall be liable to an action for the recovery of the possession of such military property, and of a penalty of not less than ten nor more than one hundred dollars.

Penalty.

§ 314. Any person belonging to the military forces who shall, contrary to the lawful order of the proper officer, retain in his possession or control any military property of this state, shall be liable to an action to recover the possession thereof and to pay a fine of not less than ten nor more than one hundred dollars, and shall also be deemed guilty of a misdemea-

nor; and any commanding officer may take possession thereof or of such military property mentioned in the preceding section wherever the same may be found.

§ 315. Actions to recover the possession of military property and the amount of any fine or penalty under the two preceding sections may be brought, by any officer entitled to the possession of such property, in any court of competent jurisdiction, and such fine or penalty together with all other fines and penalties prescribed by this act, and by chapter three hundred and ninety-eight of the Session Laws of eighteen hundred and fifty-four shall be paid to the treasurer of the county where the offender may reside, for the benefit of the military fund of the regiment located therein. The possession of any military property, or the amount of a fine or penalty may be recovered in the same action. Proceedings at law shall not preclude the punishment of any military person in the military courts.

Actions to recover.

§ 316. Any person belonging to the military forces of this state, going to or returning from any parade, encampment, drill or meeting, which he may be required by law to attend, shall, together with his conveyance and the military property of the state, be allowed to pass free through all toll gates, over toll-bridges and ferries.

Toll gates, &c., to be free.

§ 317. Whenever any officer shall have served or shall hereafter serve continuously and honorably as commandant of any military company, under a military commission, issued under the laws of this state, for the period of twenty years, the Commander-in-Chief shall have power to confer upon such officer the brevet or honorary rank of colonel, but such brevet shall not confer additional pay or emoluments for services under this act.

Honorary brevet.

§ 318. All officers, non-commissioned officers, musicians and privates of the national guard, while on duty or assembled therefor, pursuant to the order of the sheriff of any county, or the mayor of any city, in cases of riot, tumult, breach of peace, resistance to process, or whenever called upon in aid of the civil authorities, shall receive the compensation provided by the twenty-first section of the act entitled "An act to enforce the laws and preserve order," passed April fifteen, eighteen hundred and forty-five, and such compensation shall be audited, allowed and paid by the supervisors of the county where such service is rendered, and shall be a portion of the county charges of said county, to be levied and raised as other county charges are levied and raised.

Compensation in case of riot, &c.

§ 319. Chapter three hundred and ninety-eight of the laws of eighteen hundred and fifty-four, except such parts of the same as are referred to in sections five and ten of this title, chapters two hundred and sixty-one and five hundred and thirty-six of the laws of eighteen hundred and fifty-five, chapters one hundred and twenty-nine and three hundred and forty-three of the laws of eighteen hundred and fifty-eight,

Supervisors to pay.

Acts repealed.

PART I.

and all other acts and parts of acts conflicting with this act, are hereby repealed; but such repeal shall not affect any legal proceedings commenced under them.

CHAPTER XI.

Towns, Cities and Villages.

CHAP. 52.

AN ACT respecting Town-Meetings.

PASSED February 26, 1831.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

When to be held.

§ 1. Whenever from any cause, the time of holding the annual town-meetings in any town, shall not have been fixed by the inhabitants thereof, in the manner required by law, the next annual town-meeting, in such town, shall be held on the same day of the same week of the same month, on which the last annual town-meeting of such town was held, and if no place shall have been fixed for such meeting, then the same shall be held at the place of the last annual town-meeting.

5 N. Y., 27.

CHAP. 109.

AN ACT relative to the Oath of Justices of the Peace.

PASSED April 11, 1832.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Oath when to be taken.

§ 1. The oath of office of justices of the peace shall be taken before the clerk of the county for which they may have been elected or appointed, at any time after election or appointment, and before the fifteenth day of January next succeeding.

Clerk to report to district attorney.

§ 2. It is hereby made the duty of the clerks of counties to make a report to the district attorney of their respective counties of all omissions, by any town officers, to make and transmit any returns or certificates which by law they are required to make to such clerk, and the said district attorney shall forthwith proceed to enforce the penalty by law imposed upon such delinquent officer.

CHAP. 222.

AN ACT to authorize the formation of Fire Companies.

PASSED April 23, 1832.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The supervisors and justices of the peace for the time being of any town in this state, may appoint in writing any number of the inhabitants of the said town, not exceeding forty to each fire engine, which may be procured for the extinguishment of fires in the said town: the persons so appointed shall be firemen of the said town, but no such company shall be formed pursuant to this act in any incorporated city or village; and all such firemen and all the members of any fire company or of any hook and ladder company, appointed pursuant to any law of this state, shall while they are such firemen or members, be exempt from serving on juries in courts of record and except in cases of war, insurrection or invasion, from militia duty.

Companies
how to be
formed.

As amended by Laws of 1845, ch. 244.

§ 3. Such penalties may be collected by and in the name of the said captains in any court having cognizance thereof, and when collected, shall be expended by said companies for the repair and preservation of their engines and apparatus.

Penalties.

§ 4. All vacancies which may at any time happen in said companies by death, resignation or otherwise, shall from time to time be filled by the supervisors and justices aforesaid.

Vacancies.

CHAP. 16.

AN ACT in relation to town meetings.

PASSED February 21, 1834.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The time for holding town meetings shall include the first Tuesday in February and the first Tuesday in May; and all town meetings which have been held on either of those days, shall be as valid and effectual as though they had been held on any Tuesday between those days.

When to be
held.

CHAP. 423.

AN ACT extending further privileges to the firemen of the respective cities within this state.

PASSED May 8, 1835.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

In case of removal.

§ 1. The firemen of the different cities within this state, in case of removal from one city to another, shall be allowed the time which they may have served as such firemen in the city they left, in the city to which they have removed, upon producing a certificate of such service, signed by the chief engineer of the city so left, and being reappointed a fireman in the city to which they have removed.

Term of service.

§ 2. When every such fireman shall have served as such for so long a time thereafter as shall make the whole term of service the same as required by law of firemen residing in the city removed to, they shall be entitled to all the privileges and exemptions now secured by law to the firemen of the cities of Albany and New-York.

CHAP. 172.

AN ACT respecting the oath of town officers.

PASSED April 6, 1838.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Town clerk to administer oath.

§ 1. The oath of office of any town officer, except justices of the peace and commissioners of deeds, may be subscribed and sworn before the town clerk of the town in which such officer shall be elected ; such oath shall be administered and certified without fee or reward.

CHAP. 261.

AN ACT to amend article fourth, chapter eleventh, title fourth and part first of the Revised Statutes relative to division fences.

PASSED April 18, 1838.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Damages for omitting to build.

§ 1. If any person liable to contribute to the erection or reparation of a division fence, shall neglect or refuse to make and maintain his proportion of such fence, or shall permit the

same to be out of repair, he shall not be allowed to have and maintain any action for damages incurred, but shall be liable to pay to the party injured all such damages as shall accrue to his lands, and the crops, fruit trees and shrubbery thereon, and fixtures connected with the said land, to be ascertained and appraised by any two fence viewers of the town, and to be recovered with costs of suit; which appraisement shall be reduced to writing, and signed by the fence viewers making the same, but shall be only prima facie evidence of the amount of such damages.

18 N. Y., 210; 5 D., 260; 4 D., 101; 3 H., 40.

CHAP. 21.

AN ACT to provide for the election of mayors by the people.

PASSED February 13, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Mayors of the several cities in this state shall be elected annually by ballot, by the male inhabitants entitled to vote for members of the common council of such cities respectively. Mayors how to be elected.

§ 2. The inspectors of elections in the several wards of said cities, shall prepare a separate box, in which the ballots for mayor shall be deposited. On the outer side of each ballot, when folded, there shall appear written or printed, the word "Mayor." But no ballot found in such box shall be rejected for the want of any such endorsement. Ballots.

§ 3. All the provisions of law in force in the said cities, in respect to the time and manner of notifying, holding and conducting elections for charter officers, shall apply, so far as applicable, to the election of mayors in said cities respectively. Election how to be conducted.

§ 4. The inspectors of the several wards of said cities, shall canvass the ballots for mayor, and certify and state the result, in the same manner they are required to do in respect to the election of aldermen in the said cities respectively. Canvass of votes.

§ 5. The said statement and certificate by the inspectors, shall, on the same or the next day after the canvass is completed, be by them filed with the clerk of the city. Statement and certificate to be filed.

§ 6. The clerk shall deliver such statement and certificate to the common council, at their next meeting after such election; whereupon said common council shall proceed to determine and declare who is duly elected to the office of mayor: and the person having the greatest number of votes shall be declared duly elected. And the said common council shall make a certificate of their determination, which shall be signed by the members present, or a majority of them, and filed with the said clerk. Common council to determine who is elected.

PART I.
Mayors to
take oath
of office.

§ 7. The mayors elected in pursuance of this act, shall take the constitutional oath of office, and enter on the duties of their office at the same time that the members of the common council elected at the same election enter on the performance of their duties, and shall hold their office for one year and until a successor be elected and takes the constitutional oath of office.

Vacancies
how to be
filled.

§ 8. In case a vacancy shall occur in the office of mayor in any of the cities of this state, the common council of such city shall by ballot elect a mayor to fill such vacancy, who shall hold his office until a successor shall be duly elected and take the constitutional oath of office.

Repeal.

§ 9. All acts and parts of acts now in force, inconsistent with the provisions of this act, are hereby repealed.

Exception
as to New
York.

§ 10. This act shall not apply to the city of New-York, and shall take effect immediately.

CHAP. 238.

AN ACT to abolish the office of commissioner of deeds in the several towns in this state, and to devolve their powers and duties on justices of the peace.

PASSED May 7, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office
abolished,
and justices
to perform
duties.

§ 1. The office of commissioner of deeds is hereby abolished in the several towns of this state; and all the powers and duties of such commissioners shall hereafter be executed by the justices of the peace in said towns respectively; but the several commissioners now in office may continue to execute the duties of said office till the expiration of the term for which they were respectively appointed, and no longer.

Fees al-
lowed to
justices.

§ 2. It shall not be lawful for the said justices of the peace to take or receive, for the acknowledgment or proof of deeds, any further or higher fees than the following, viz.:

For taking the proof or acknowledgment of a deed, and drawing and signing the certificate, for one person, twenty-five cents. For each additional person having executed the same deed, twelve and a half cents. For swearing each witness, six cents.

CHAP. 305.

AN ACT in relation to the accounts of town officers.

PASSED May 14, 1840.

The People of the State of New-York, represented in Senat and Assembly, do enact as follows :

Board of
town audi-
tors.

§ 1. The supervisor, town clerk, and justices of the peace, or any two of the said justices of the peace of the several

towns in this state, shall constitute a board of town auditors for the purpose of auditing and allowing the accounts of all charges and claims payable by their respective towns.

1 H, 199.

§ 2. The said board of auditors shall meet for the purpose of auditing and allowing such accounts annually in each town, at the place of holding the last town meeting on the last Thursday preceding the annual meeting of the board of supervisors of the county.

To meet annually.

As amended by Laws of 1844, ch. 288.

§ 3. The said board shall make a certificate to be signed by a majority of said board, specifying the name of the person in whose name the account is drawn, the nature of the demand and the amount allowed; and shall cause a duplicate of said certificate to be made, one of which shall be delivered to the town clerk of said town, to be by him kept on file for the inspection of any of the inhabitants of the town, and the other shall be delivered to the supervisor of said town, to be by him laid before the board of supervisors of his county at their annual meeting.

To make certificates.

§ 4. The said board of supervisors are hereby authorized and directed to cause to be levied and raised upon said town, the amount specified in said certificate, in the same manner as they are now directed to levy and raise other town charges.

Duty of board of supervisors.

CHAP. 57.

AN ACT to prohibit members of common councils of cities, trustees of villages, and supervisors of towns, to be interested in certain contracts.

PASSED March 20, 1843.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall not be lawful for a member of the common council of any city in this state, or of a trustee of any village, or the supervisor of any town, to become a contractor under any contract authorized by the common council, board of trustees, or board of supervisors of which he is a member, or to be in any manner interested directly or indirectly, either as principal or surety, in such contract.

Prohibition as to common councilmen, &c.

§ 2. No town, county, city or state officer shall be interested in any contract made by such officer, or be a purchaser or interested in any purchase at any sale made by such officer, or a seller at any purchase in the discharge of his official duty.

As to town, county, city and state officers.

§ 3. Contracts in violation of the 1st and 2nd sections of this act of the city, county or

the 1st and the instance of any other

County court may be made.

PART I.

Investigation how to be conducted.

party interested in such contract except the officers mentioned and prohibited in said sections from making or being interested in such contracts.

§ 4. The chairman of committees of common councils and of other public municipal bodies, charged with any investigation or inquiry requiring the taking of testimony, are authorized to administer oaths to such witnesses as may be brought before such committee, and any false swearing in testimony so taken shall be deemed perjury, and subjected to the pains and penalties of perjury.

CHAP. 180.

AN ACT to reduce the number of town officers, and town and county expenses, and to prevent abuses in auditing town and county accounts.

PASSED May 10, 1845.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Overseers of the poor.

§ 1. The electors of each town shall have the power at their annual town meeting, to determine whether they will choose one or two overseers of the poor, and the number determined upon shall be the number to be elected. And such overseers shall have the discretionary right to expend a sum not exceeding ten dollars for the relief of one poor person or family, under section forty-two, title first, chapter twenty, part first, of the Revised Statutes, without any order from a justice of the peace therefor. But nothing in this section shall apply to the counties of Montgomery or Kings.

For § 2, see Laws of 1847, ch. 455. Post, p. 311.

Commissioners of highways to give bond

§ 3. Every commissioner of highways hereafter to be elected or appointed, shall, before entering upon his duties, and within ten days after notice of his election or appointment, execute to the supervisor of his town, a bond with two sureties, to be approved by the supervisor by an endorsement thereon, and filed with him, in the penal sum of one thousand dollars, conditioned that he will faithfully discharge his duties as such commissioner, and within ten days after the expiration of his term of office, pay over to his successor what money may be remaining in his hands as such commissioner, and render to such successor a true account of all moneys received and paid out by him as such commissioner.

Assessors to be classified.

§ 4. There shall be elected at the next annual town meeting, three assessors in each town, who shall be classified as commissioners of highways are by the second section of this act required to be; and one assessor shall annually thereafter be elected for the term of three years; and all of the provisions of said second section, relative to the classification, term

of office and filling vacancies of three highway commissioners shall apply to such assessors.

For § 5, see Laws of 1847 ch. 455. Post, p. 312.

§ 6. Any person conceiving himself aggrieved by any such assessment, or the supervisor on the part of the town, may, within twenty days after the filing thereof as aforesaid, signify the same by serving a written notice upon any justice of the peace of the town, stating that such person or supervisor requires a review of such assessment, and that a jury should be called for the purpose; and thereupon such justice shall issue his warrant, and the proceedings shall be had in the same manner as now required by law, in relation to assessments made on application of the commissioners of highways to two justices of the peace; but the cost and expenses of such review shall be paid by the person or persons requiring the same, or by the town, if required by the supervisor.

Persons
aggrieved
may appeal.

20 N. Y., 255.

§ 7. In all cases where the assessments of damages for laying out, altering or discontinuing any highway or road, shall be made under either of the two last preceding sections, a certificate of the amount thereof shall be delivered by the supervisor of the town to the board of supervisors of the county, to be audited; and if the supervisor of the town, or any person interested, shall feel aggrieved by such assessment, the same shall, by order of such board, be referred to any three judges of the county for reconsideration, who shall have power to enquire into the principles and fairness of such assessment, and to increase or diminish the damages, as in their judgment shall be just and reasonable.

Certificate
of assess-
ment to be
given and
audited.

Sec. 8 repealed by Laws of 1847, ch. 455.

§ 9. Whenever any appeal shall hereafter be made from any decision of any highway commissioner or commissioners for refusing to lay out, alter, or discontinue any road or highway, such appeal shall in the first instance be made to the first judge of the county courts of the county wherein such commissioner shall reside; or in case of a vacancy in the office of such judge, or in case of his interest or disability, then to any other disinterested county judge of such county; and such appeal shall be brought and conducted in all respects as appeals in like cases are now required to be by law; provided, that any judge being a resident of the town where such road or highway shall be located, shall be deemed interested in the matter so as to prevent his acting on any such appeal.

Appeal to
be made to
first judge.

8 N. Y., 480; 19 B., 241.

Sections 10 and 11 repealed by Laws of 1847, ch. 455.

§ 12. The judges associated together under the tenth section of this act, shall entertain and hear all appeals in relation to the same matter, meet and determine the same, and file

Judges to
hear ap-
peals, &c.

PART I.

their decision in the office of the clerk of the town as soon as convenient after the expiration of the said forty days, and their decision shall be final.

Final determination to be carried into effect.

§ 13. Whenever there shall have been any final determination upon any appeal or appeals provided for as aforesaid, making it necessary that any road or highway shall be laid out, altered, opened or discontinued, it shall be the duty of the commissioner or commissioners of highways of the town where the same is to be done, to carry out such determination the same as if the decision of such commissioner or commissioners had been in favor thereof, and there had been no appeal.

19 B., 241; 46 B., 209.

Jurors not to be paid.

§ 14. No compensation shall be allowed any juror for examining and certifying in regard to the necessity and propriety of any highway being laid out, altered or discontinued, nor for appearing to make such examination.

Courts of special sessions.

§ 15. Courts of special sessions of the peace shall be held by a single magistrate, now authorized to sit as a member of a court of special sessions, and all offences now triable before such courts, may be tried before such single magistrate, with or without a jury, at the election of the prisoner; and all provisions of law now applicable to the powers, duties and proceedings of such courts shall apply to such magistrate and the proceedings before him.

Judgment for costs against complainant in certain cases.

§ 16. Whenever a magistrate or a jury before whom a criminal cause shall be tried, under the provisions of this act, shall be satisfied from the evidence and proceedings had before them, that the person or persons charged and tried, were complained of and proceeded against without probable cause, and with malicious intent to injure or harass, they may render a verdict for costs against the complainant; whereupon the magistrate shall enter judgment for the amount of such costs, upon which an execution may issue against the property or person of such complainant in the same manner as upon a judgment rendered for a tort by a justice of the peace.

Persons charged with offences electing to be tried, not to be examined.

§ 17. It shall not be necessary for any magistrate to take the examination of any person brought before him, charged, with an offence triable before such magistrate, in any case where such person shall elect to be tried before him; and the board of supervisors shall not audit or allow to any magistrate any fees or charges, for the arrest, examination, commitment or taking bail of any person charged with an offence, unless such magistrate shall have fully complied with all the requirements of section twenty-six, title two, chapter two, part four, of the Revised Statutes.

Subpoenas when issued how to be endorsed.

§ 18. Whenever any magistrate shall issue any subpoena in any criminal proceeding or trial, he shall endorse upon the back thereof a memorandum showing whether the same was issued for the people or for the prisoner; and every officer or

other person who shall insert the names of witnesses in a subpoena issued for the people, intended for the prisoner, with intent thereby to deceive any person, or to obtain any pay as for services in subpoenaing witnesses for the people, shall be deemed guilty of a misdemeanor; and no such magistrate shall charge or be allowed for more than six subpoenas in any one criminal case, nor shall any board of supervisors allow any charge for issuing or serving any subpoena in any criminal case or proceeding issued or served on behalf of a defendant.

§ 19. Whenever the trial of an indictment shall be postponed by the court in which the same shall be pending, it shall be the duty of the district attorney to cause all the witnesses on the part of the people in attendance, deemed by him material, to be recognized to appear at the time and place to which such trial shall have been postponed.

Trial being postponed witnesses to be recognized to appear.

§ 20. The court before which any witness on the part of the people in a criminal prosecution shall have been recognized to appear, by recognizance taken before a magistrate or a court of record having criminal jurisdiction, may proceed against such witness for any default in appearing, pursuant to the condition of his recognizance, by process of attachment, in the same manner and with like proceedings thereon as if such witness had failed to appear in obedience to a subpoena; and the recognizance of such witness, filed with the clerk of the court, if taken before a magistrate, or the record of the recognizance, if taken before a court of record, and the entry in the minutes of the clerk of the court of the default of such witness, shall be sufficient evidence for issuing such process of attachment. No district attorney shall receive any fee for issuing a subpoena for the appearance of any witness who shall have been recognized to appear in the same prosecution and at the same court designated in such subpoena. The issuing of an attachment against a witness pursuant to this section, shall not be a bar to the prosecution of his recognizance.

Witnesses may be prosecuted for default.

No charge for subpoenas in certain cases.

Section 21 repealed by Laws of 1847, ch. 490.

§ 22. The accounts of the members of boards of supervisors shall be made out in items and verified as hereinafter provided.

Of board of supervisors

§ 23. No town officer shall be allowed any per diem compensation for his services, unless expressly provided by law.

No law no pay.

§ 24. No account shall be audited by any board of town auditors or supervisors, or superintendents of the poor, for any services or disbursements, unless such account shall be made out in items, and accompanied with an affidavit attached to, and to be filed with such account, made by the person presenting or claiming the same, that the items of such account are correct, and that the disbursements and services charged therein have been in fact made or rendered, or necessary to be made or rendered at that session of the board, and stating that no part thereof has been paid or satisfied. And the

Accounts how and when to be audited.

PART I.

chairman of such board, or either of said superintendents, is hereby authorized to administer any oath required under this section.

So amended Laws of 1847, ch. 490; 30 How. P. R., 179.

Saving clause.

§ 25. Nothing in the preceding section shall be construed to prevent any such board from disallowing any account in whole or in part, when so rendered and verified, nor from requiring any other or further evidence of the truth and propriety thereof as such board may think proper.

For section 26 see Laws of 1847, ch. 455. Post, p. 315.

Provision as to travel fees.

§ 27. No travel fees shall be allowed for travelling to subpoena a witness, beyond the limits of the county in which the subpoena was issued, or of an adjoining county, unless the board auditing the account shall be satisfied by proof that such witness could not be subpoenaed without additional travel; nor shall any travel fees for subpoenaing witnesses be allowed, except such as the board auditing the account shall be satisfied were indispensably necessary.

Accounts to be numbered from one upwards.

§ 28. All accounts presented in any year to the board of supervisors of any county, shall be numbered from number one, upwards in the order in which they are presented, and a memorandum of the time of presenting the same, of the names of the persons in whose favor they shall be made out and by whom they shall be presented, shall be entered in the minutes of the board to which they shall be presented; and no such account after being so presented shall be withdrawn from the custody of the board or its clerk for any purpose whatever, except to be used as evidence upon a judicial trial or proceeding; and in such case it shall, after being so used, be forthwith returned to such custody.

Duty of town collector on receiving warrant to collect taxes.

§ 29. Whenever any town collector shall have received any warrant for the collection of taxes, he shall immediately thereafter cause notices of the reception thereof to be posted up in five public places in the ward or town, and so located as will be most likely to give notice to the inhabitants thereof, and shall designate in such notices a central and convenient place in such town where he will attend from nine o'clock, forenoon, till four o'clock, afternoon, at least once in each week for thirty days, on a day also to be specified in such notice, for the purpose of receiving payment of taxes; and it shall be the duty of such collector to attend accordingly, and any person may pay his taxes to such collector at the time and place so designated, or at any other time or place, on paying one per cent fees thereon, within thirty days from the first posting of said notices; and no collector shall receive over one per cent fees for receiving or collecting any taxes within said thirty days. But every such collector shall be entitled to receive one cent fees on every amount of tax under one dollar, paid in or collected within said thirty days.

18 B., 328; 17 B., 147. See amendment Laws of 1847, ch. 482. Post, p. 318.

§ 30. It shall be the duty of the collector, after the expiration of the said thirty days, to proceed and collect the unpaid taxes in the same manner, and shall pay over or account to the county treasurer, and shall be entitled to charge, collect and receive the same fees as now provided by law; which said fees shall be collected with such unpaid taxes from the several and respective persons named in said tax list.

26 B., 92; 18 B., 328; 17 B., 147.

§ 31. Whenever any board of supervisors shall make out any tax list and warrant, they shall not add thereto the fees of the collection, but such fees shall be paid and collected as above prescribed in sections twenty-nine and thirty of this act.

18 B., 328.

§ 32. The provisions of this act relative to the collection of taxes and making out any tax list and warrant, shall apply to all the cities and towns of this state, except where there are special provisions of law for the collection thereof.

§ 33. The twenty-sixth section of this act shall not apply to the county of Kings.

§ 34. Every justice of the peace elected in any of the towns or cities of this state, shall, before he enters upon the duties of his office, execute an instrument in writing with two sureties, to be approved by the supervisor of the town or ward in which such justice shall reside, conditioned that he will pay over on demand all moneys received by him in virtue of his office, to the person or persons entitled to the same, and file the said instrument in writing, in the office of the city or town clerk, in which he shall reside.

4 D., 165.

§ 35. Sections third, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth of this act shall not extend to the counties of Kings, Queens or Suffolk; and no provision of this act shall apply to the city and county of New York.

§ 36. All statutory provisions inconsistent with this act are hereby repealed.

CHAP. XI.
In relation
to unpaid
taxes.

Collector's
fees how
paid.

Application
of act.

Kings
county.

Justices to
give bond
with sure-
ties.

Kings,
Queens,
Suffolk and
New York.

Repeal.

CHAP. 151.

AN ACT in relation to firemen in incorporated villages.

PASSED April 28, 1847.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

§ 1. After the legal voters of any incorporated village shall have, pursuant to law, voted to raise by tax a sufficient sum to procure the necessary implements for a hook and ladder company for such village, the trustees thereof may appoint in writing, any number not exceeding thirty of the inhabi-

Hook and
ladder
companies.

PART I.

Fire companies.

tants of such village members of a hook and ladder company, and such members shall elect annually, at such time as such trustees shall prescribe, one of their number as foreman, and another as assistant foreman thereof; but such foreman and assistant foreman may be removed by such trustees for good and sufficient cause. And such trustees may appoint as aforesaid, any number of such inhabitants not exceeding fifty, as members of a fire company for each fire engine procured and kept for the extinguishment of fires in such village; and such fire company may elect annually, at such time as such trustees shall prescribe, one of their number as foreman and another as assistant foreman thereof; but such foreman and assistant foreman may be removed by such trustees for good and sufficient cause. Such trustees may from time to time by appointment as aforesaid, fill any vacancy that may occur in such company.

Ordinances.

§ 2. Such trustees may pass such ordinances for the government of such companies as they shall deem proper, not inconsistent with the laws of this state or of the United States, and may enforce such ordinances by penalties not exceeding twenty dollars for any offence, to be sued for in the name of the trustees and recovered for the use of the village.

Privileges of firemen.

§ 3. Every person who shall hereafter faithfully serve as a member of any such company for the term of ten years, and shall conform to all the regulations of the village in reference thereto after becoming eighteen years of age, shall hereafter become exempt from militia duty except in cases of war, insurrection or invasion. But the time when any hook and ladder company shall be unprovided with the proper implements for such company shall not be estimated as part of such ten years. The certificate of the president of any board of such trustees specifying the time when, and the company or companies in which such service of ten years took place, shall be presumptive evidence of such service.

CHAP. 197.

AN ACT authorizing the erection of town houses.

PASSED May 5, 1847; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Money may be voted at town meetings to buy sites.

§ 1. The electors of any town of this state in which there shall not be a town house, at any annual town meeting, may by resolution, vote a sum of money for the purchase of a site for, and the building of a town house, not exceeding in number of dollars, twice the number of electors in said town, provided that a notice of intention to propose such a resolution, shall have been posted, within fifteen days of, and not

less than ten days preceding said meeting, in five of the most public places in said town.

§ 2. Upon proper representation of the action of any town under the first section of this act, the board of supervisors of the county in which such town is situated, may cause the sum so voted, to be collected with the other expenses of said town; or may require the question to be again submitted to the electors of said town at the next annual town meeting.

Amount to be raised by tax.

§ 3. Conveyances for sites, shall be made to the towns; sites shall be purchased and houses erected by the supervisor, town clerk and the justices of the town, and the houses shall be controlled by the supervisor, town clerk and the justice of the peace residing nearest the same; and the electors may from time to time, vote such sum as may be necessary to keep any town house in repair and insured.

Conveyances of sites how made, &c.

§ 4. The board of supervisors in any county, may in their discretion, cause any money or any portion thereof, voted by towns before the passage of this act, for building town houses, to be raised in said towns for such purpose.

Money to be raised.

CHAP. 455.

AN ACT to amend an act entitled "an act to reduce the number of town officers, and town and county expenses, and to prevent abuses in auditing town and county accounts," passed May 10, 1845.

PASSED December 14, 1847; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The second section of the act entitled "an act to reduce the number of town officers, and town and county expenses, and to prevent abuses in auditing town and county accounts," passed May 10, 1845, is hereby amended so as to read as follows:

§ 2. "The electors of each town shall have power at their annual town meeting, to determine by resolution whether there shall be chosen one or three highway commissioners, and the number so determined upon shall be balloted for and chosen; and if only one shall be determined upon and chosen, he shall possess all the powers and discharge all the duties of commissioners of highways as prescribed by law, and shall hold his office for one year. And whenever three commissioners shall be chosen in any town they shall be divided by lot by the canvassers, upon the result of the canvass, into three classes, to be numbered one, two and three; the term of office of the first class shall be one year, of the second, two, and of the third, three; and one commissioner only shall thereafter annually be elected in such town, who shall hold his office for three years. and until a successor shall be duly

The electors to determine whether one or three highway commissioners shall be chosen.

Their powers and term of office.

PART I.
Mayors to
take oath
of office.

§ 7. The mayors elected in pursuance of this act, shall take the constitutional oath of office, and enter on the duties of their office at the same time that the members of the common council elected at the same election enter on the performance of their duties, and shall hold their office for one year and until a successor be elected and takes the constitutional oath of office.

Vacancies
how to be
filled.

§ 8. In case a vacancy shall occur in the office of mayor in any of the cities of this state, the common council of such city shall by ballot elect a mayor to fill such vacancy, who shall hold his office until a successor shall be duly elected and take the constitutional oath of office.

Repeal.

§ 9. All acts and parts of acts now in force, inconsistent with the provisions of this act, are hereby repealed.

Exception
as to New
York.

§ 10. This act shall not apply to the city of New-York, and shall take effect immediately.

CHAP. 238.

AN ACT to abolish the office of commissioner of deeds in the several towns in this state, and to devolve their powers and duties on justices of the peace.

PASSED May 7, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Office
abolished,
and justices
to perform
duties.

§ 1. The office of commissioner of deeds is hereby abolished in the several towns of this state; and all the powers and duties of such commissioners shall hereafter be executed by the justices of the peace in said towns respectively; but the several commissioners now in office may continue to execute the duties of said office till the expiration of the term for which they were respectively appointed, and no longer.

Fees al-
lowed to
justices.

§ 2. It shall not be lawful for the said justices of the peace to take or receive, for the acknowledgment or proof of deeds, any further or higher fees than the following, viz.:

For taking the proof or acknowledgment of a deed, and drawing and signing the certificate, for one person, twenty-five cents. For each additional person having executed the same deed, twelve and a half cents. For swearing each witness, six cents.

CHAP. 305.

AN ACT in relation to the accounts of town officers.

PASSED May 14, 1840.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows :

Board of
town audi-
tors.

§ 1. The supervisor, town clerk, and justices of the peace, or any two of the said justices of the peace of the several

towns in this state, shall constitute a board of town auditors for the purpose of auditing and allowing the accounts of all charges and claims payable by their respective towns.

1 H., 199.

§ 2. The said board of auditors shall meet for the purpose of auditing and allowing such accounts annually in each town, at the place of holding the last town meeting on the last Thursday preceding the annual meeting of the board of supervisors of the county.

To meet annually.

As amended by Laws of 1844, ch. 288.

§ 3. The said board shall make a certificate to be signed by a majority of said board, specifying the name of the person in whose name the account is drawn, the nature of the demand and the amount allowed; and shall cause a duplicate of said certificate to be made, one of which shall be delivered to the town clerk of said town, to be by him kept on file for the inspection of any of the inhabitants of the town, and the other shall be delivered to the supervisor of said town, to be by him laid before the board of supervisors of his county at their annual meeting.

To make certificates.

§ 4. The said board of supervisors are hereby authorized and directed to cause to be levied and raised upon said town, the amount specified in said certificate, in the same manner as they are now directed to levy and raise other town charges.

Duty of board of supervisors.

CHAP. 57.

AN ACT to prohibit members of common councils of cities, trustees of villages, and supervisors of towns, to be interested in certain contracts.

PASSED March 20, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall not be lawful for a member of the common council of any city in this state, or of a trustee of any village, or the supervisor of any town, to become a contractor under any contract authorized by the common council, board of trustees, or board of supervisors of which he is a member, or to be in any manner interested directly or indirectly, either as principal or surety, in such contract.

Prohibition as to common councilmen, &c.

§ 2. No town, county, city or state officer shall be interested in any contract made by such officer, or be a purchaser or interested in any purchase at any sale made by such officer, or a seller at any purchase made by such officer in the discharge of his official duty.

As to town, county, city and state officers.

§ 3. Contracts in violation of the provisions of the 1st and 2nd sections of this act, may be declared void at the instance of the city, county, village or town interested, or of any other

Certain contracts may be declared void.

PART I.

Investigation how to be conducted.

party interested in such contract except the officers mentioned and prohibited in said sections from making or being interested in such contracts.

§ 4. The chairman of committees of common councils and of other public municipal bodies, charged with any investigation or inquiry requiring the taking of testimony, are authorized to administer oaths to such witnesses as may be brought before such committee, and any false swearing in testimony so taken shall be deemed perjury, and subjected to the pains and penalties of perjury.

CHAP. 180.

AN ACT to reduce the number of town officers, and town and county expenses, and to prevent abuses in auditing town and county accounts.

PASSED May 10, 1845.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Overseers of the poor.

§ 1. The electors of each town shall have the power at their annual town meeting, to determine whether they will choose one or two overseers of the poor, and the number determined upon shall be the number to be elected. And such overseers shall have the discretionary right to expend a sum not exceeding ten dollars for the relief of one poor person or family, under section forty-two, title first, chapter twenty, part first, of the Revised Statutes, without any order from a justice of the peace therefor. But nothing in this section shall apply to the counties of Montgomery or Kings.

For § 2, see Laws of 1847, ch. 455. Post, p. 311.

Commissioners of highways to give bond

§ 3. Every commissioner of highways hereafter to be elected or appointed, shall, before entering upon his duties, and within ten days after notice of his election or appointment, execute to the supervisor of his town, a bond with two sureties, to be approved by the supervisor by an endorsement thereon, and filed with him, in the penal sum of one thousand dollars, conditioned that he will faithfully discharge his duties as such commissioner, and within ten days after the expiration of his term of office, pay over to his successor what money may be remaining in his hands as such commissioner, and render to such successor a true account of all moneys received and paid out by him as such commissioner.

Assessors to be classified.

§ 4. There shall be elected at the next annual town meeting, three assessors in each town, who shall be classified as commissioners of highways are by the second section of this act required to be; and one assessor shall annually thereafter be elected for the term of three years; and all of the provisions of said second section, relative to the classification, term

of office and filling vacancies of three highway commissioners shall apply to such assessors.

For § 5, see Laws of 1847 ch. 455. Post, p. 312.

§ 6. Any person conceiving himself aggrieved by any such assessment, or the supervisor on the part of the town, may, within twenty days after the filing thereof as aforesaid, signify the same by serving a written notice upon any justice of the peace of the town, stating that such person or supervisor requires a review of such assessment, and that a jury should be called for the purpose; and thereupon such justice shall issue his warrant, and the proceedings shall be had in the same manner as now required by law, in relation to assessments made on application of the commissioners of highways to two justices of the peace; but the cost and expenses of such review shall be paid by the person or persons requiring the same, or by the town, if required by the supervisor.

Persons
aggrieved
may appeal.

20 N. Y., 255.

§ 7. In all cases where the assessments of damages for laying out, altering or discontinuing any highway or road, shall be made under either of the two last preceding sections, a certificate of the amount thereof shall be delivered by the supervisor of the town to the board of supervisors of the county, to be audited; and if the supervisor of the town, or any person interested, shall feel aggrieved by such assessment, the same shall, by order of such board, be referred to any three judges of the county for reconsideration, who shall have power to enquire into the principles and fairness of such assessment, and to increase or diminish the damages, as in their judgment shall be just and reasonable.

Certificate
of assess-
ment to be
given and
audited.

Sec. 8 repealed by Laws of 1847, ch. 455.

§ 9. Whenever any appeal shall hereafter be made from any decision of any highway commissioner or commissioners for refusing to lay out, alter, or discontinue any road or highway, such appeal shall in the first instance be made to the first judge of the county courts of the county wherein such commissioner shall reside; or in case of a vacancy in the office of such judge, or in case of his interest or disability, then to any other disinterested county judge of such county; and such appeal shall be brought and conducted in all respects as appeals in like cases are now required to be by law; provided, that any judge being a resident of the town where such road or highway shall be located, shall be deemed interested in the matter so as to prevent his acting on any such appeal.

Appeal to
be made to
first judge.

8 N. Y., 480; 19 B., 241.

Sections 10 and 11 repealed by Laws of 1847, ch. 455.

§ 12. The judges associated together under the tenth section of this act, shall entertain and hear all appeals in relation to the same matter, meet and determine the same, and file

Judges to
hear ap-
peals, &c.

PART I.

their decision in the office of the clerk of the town as soon as convenient after the expiration of the said forty days, and their decision shall be final.

Final determination to be carried into effect.

§ 13. Whenever there shall have been any final determination upon any appeal or appeals provided for as aforesaid, making it necessary that any road or highway shall be laid out, altered, opened or discontinued, it shall be the duty of the commissioner or commissioners of highways of the town where the same is to be done, to carry out such determination the same as if the decision of such commissioner or commissioners had been in favor thereof, and there had been no appeal.

19 B., 241; 46 B., 209.

Jurors not to be paid.

§ 14. No compensation shall be allowed any juror for examining and certifying in regard to the necessity and propriety of any highway being laid out, altered or discontinued, nor for appearing to make such examination.

Courts of special sessions.

§ 15. Courts of special sessions of the peace shall be held by a single magistrate, now authorized to sit as a member of a court of special sessions, and all offences now triable before such courts, may be tried before such single magistrate, with or without a jury, at the election of the prisoner; and all provisions of law now applicable to the powers, duties and proceedings of such courts shall apply to such magistrate and the proceedings before him.

Judgment for costs against complainant in certain cases.

§ 16. Whenever a magistrate or a jury before whom a criminal cause shall be tried, under the provisions of this act, shall be satisfied from the evidence and proceedings had before them, that the person or persons charged and tried, were complained of and proceeded against without probable cause, and with malicious intent to injure or harass, they may render a verdict for costs against the complainant; whereupon the magistrate shall enter judgment for the amount of such costs, upon which an execution may issue against the property or person of such complainant in the same manner as upon a judgment rendered for a tort by a justice of the peace.

Persons charged with offences electing to be tried, not to be examined.

§ 17. It shall not be necessary for any magistrate to take the examination of any person brought before him, charged, with an offence triable before such magistrate, in any case where such person shall elect to be tried before him; and the board of supervisors shall not audit or allow to any magistrate any fees or charges, for the arrest, examination, commitment or taking bail of any person charged with an offence, unless such magistrate shall have fully complied with all the requirements of section twenty-six, title two, chapter two, part four, of the Revised Statutes.

Subpoenas when issued how to be endorsed.

§ 18. Whenever any magistrate shall issue any subpoena in any criminal proceeding or trial, he shall endorse upon the back thereof a memorandum showing whether the same was issued for the people or for the prisoner; and every officer or

other person who shall insert the names of witnesses in a subpoena issued for the people, intended for the prisoner, with intent thereby to deceive any person, or to obtain any pay as for services in subpoenaing witnesses for the people, shall be deemed guilty of a misdemeanor; and no such magistrate shall charge or be allowed for more than six subpoenas in any one criminal case, nor shall any board of supervisors allow any charge for issuing or serving any subpoena in any criminal case or proceeding issued or served on behalf of a defendant.

§ 19. Whenever the trial of an indictment shall be postponed by the court in which the same shall be pending, it shall be the duty of the district attorney to cause all the witnesses on the part of the people in attendance, deemed by him material, to be recognized to appear at the time and place to which such trial shall have been postponed.

Trial being postponed witnesses to be recognized to appear.

§ 20. The court before which any witness on the part of the people in a criminal prosecution shall have been recognized to appear, by recognizance taken before a magistrate or a court of record having criminal jurisdiction, may proceed against such witness for any default in appearing, pursuant to the condition of his recognizance, by process of attachment, in the same manner and with like proceedings thereon as if such witness had failed to appear in obedience to a subpoena; and the recognizance of such witness, filed with the clerk or the court, if taken before a magistrate, or the record of the recognizance, if taken before a court of record, and the entry in the minutes of the clerk of the court of the default of such witness, shall be sufficient evidence for issuing such process of attachment. No district attorney shall receive any fee for issuing a subpoena for the appearance of any witness who shall have been recognized to appear in the same prosecution and at the same court designated in such subpoena. The issuing of an attachment against a witness pursuant to this section, shall not be a bar to the prosecution of his recognizance.

Witnesses may be prosecuted for default.

No charge for subpoenas in certain cases.

Section 21 repealed by Laws of 1847, ch. 490.

§ 22. The accounts of the members of boards of supervisors shall be made out in items and verified as hereinafter provided.

Of board of supervisors

§ 23. No town officer shall be allowed any per diem compensation for his services, unless expressly provided by law.

No law no pay.

§ 24. No account shall be audited by any board of town auditors or supervisors, or superintendents of the poor, for any services or disbursements, unless such account shall be made out in items, and accompanied with an affidavit attached to, and to be filed with such account, made by the person presenting or claiming the same, that the items of such account are correct, and that the disbursements and services charged therein have been in fact made or rendered, or necessary to be made or rendered at that session of the board, and stating that no part thereof has been paid or satisfied. And the

Accounts how and when to be audited.

PART I.

chairman of such board, or either of said superintendents, is hereby authorized to administer any oath required under this section.

So amended Laws of 1847, ch. 490; 30 How. P. R., 179.

Saving
clause.

§ 25. Nothing in the preceding section shall be construed to prevent any such board from disallowing any account in whole or in part, when so rendered and verified, nor from requiring any other or further evidence of the truth and propriety thereof as such board may think proper.

For section 26 see Laws of 1847, ch. 455. Post, p. 315.

Provision
as to travel
fees.

§ 27. No travel fees shall be allowed for travelling to subpoena a witness, beyond the limits of the county in which the subpoena was issued, or of an adjoining county, unless the board auditing the account shall be satisfied by proof that such witness could not be subpoenaed without additional travel; nor shall any travel fees for subpoenaing witnesses be allowed, except such as the board auditing the account shall be satisfied were indispensably necessary.

Accounts to
be numbered
from one
upwards.

§ 28. All accounts presented in any year to the board of supervisors of any county, shall be numbered from number one, upwards in the order in which they are presented, and a memorandum of the time of presenting the same, of the names of the persons in whose favor they shall be made out and by whom they shall be presented, shall be entered in the minutes of the board to which they shall be presented; and no such account after being so presented shall be withdrawn from the custody of the board or its clerk for any purpose whatever, except to be used as evidence upon a judicial trial or proceeding; and in such case it shall, after being so used, be forthwith returned to such custody.

Duty of
town collector
on receiving
warrant to
collect
taxes.

§ 29. Whenever any town collector shall have received any warrant for the collection of taxes, he shall immediately thereafter cause notices of the reception thereof to be posted up in five public places in the ward or town, and so located as will be most likely to give notice to the inhabitants thereof, and shall designate in such notices a central and convenient place in such town where he will attend from nine o'clock, forenoon, till four o'clock, afternoon, at least once in each week for thirty days, on a day also to be specified in such notice, for the purpose of receiving payment of taxes; and it shall be the duty of such collector to attend accordingly, and any person may pay his taxes to such collector at the time and place so designated, or at any other time or place, on paying one per cent fees thereon, within thirty days from the first posting of said notices; and no collector shall receive over one per cent fees for receiving or collecting any taxes within said thirty days. But every such collector shall be entitled to receive one cent fees on every amount of tax under one dollar, paid in or collected within said thirty days.

18 B., 328; 17 B., 147. See amendment Laws of 1847, ch. 482. Post, p. 318.

§ 30. It shall be the duty of the collector, after the expiration of the said thirty days, to proceed and collect the unpaid taxes in the same manner, and shall pay over or account to the county treasurer, and shall be entitled to charge, collect and receive the same fees as now provided by law; which said fees shall be collected with such unpaid taxes from the several and respective persons named in said tax list.

26 B., 92; 18 B., 328; 17 B., 147.

§ 31. Whenever any board of supervisors shall make out any tax list and warrant, they shall not add thereto the fees of the collection, but such fees shall be paid and collected as above prescribed in sections twenty-nine and thirty of this act.

18 B., 328.

§ 32. The provisions of this act relative to the collection of taxes and making out any tax list and warrant, shall apply to all the cities and towns of this state, except where there are special provisions of law for the collection thereof.

§ 33. The twenty-sixth section of this act shall not apply to the county of Kings.

§ 34. Every justice of the peace elected in any of the towns or cities of this state, shall, before he enters upon the duties of his office, execute an instrument in writing with two sureties, to be approved by the supervisor of the town or ward in which such justice shall reside, conditioned that he will pay over on demand all moneys received by him in virtue of his office, to the person or persons entitled to the same, and file the said instrument in writing, in the office of the city or town clerk, in which he shall reside.

4 D., 165.

§ 35. Sections third, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth and fourteenth of this act shall not extend to the counties of Kings, Queens or Suffolk; and no provision of this act shall apply to the city and county of New York.

§ 36. All statutory provisions inconsistent with this act are hereby repealed.

CHAP. XI.
In relation
to unpaid
taxes.

Collector's
fees how
paid.

Application
of act.

Kings
county.

Justices to
give bond
with sure-
ties.

Kings,
Queens,
Suffolk and
New York.

Repeal.

CHAP. 151.

AN ACT in relation to firemen in incorporated villages.

PASSED April 28, 1847.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. After the legal voters of any incorporated village shall have, pursuant to law, voted to raise by tax a sufficient sum to procure the necessary implements for a hook and ladder company for such village, the trustees thereof may appoint in writing, any number not exceeding thirty of the inhabi-

Hook and
ladder
companies.

PART I

Fire companies.

tants of such village members of a hook and ladder company, and such members shall elect annually, at such time as such trustees shall prescribe, one of their number as foreman, and another as assistant foreman thereof; but such foreman and assistant foreman may be removed by such trustees for good and sufficient cause. And such trustees may appoint as aforesaid, any number of such inhabitants not exceeding fifty, as members of a fire company for each fire engine procured and kept for the extinguishment of fires in such village; and such fire company may elect annually, at such time as such trustees shall prescribe, one of their number as foreman and another as assistant foreman thereof; but such foreman and assistant foreman may be removed by such trustees for good and sufficient cause. Such trustees may from time to time by appointment as aforesaid, fill any vacancy that may occur in such company.

Ordinances.

§ 2. Such trustees may pass such ordinances for the government of such companies as they shall deem proper, not inconsistent with the laws of this state or of the United States, and may enforce such ordinances by penalties not exceeding twenty dollars for any offence, to be sued for in the name of the trustees and recovered for the use of the village.

Privileges of firemen.

§ 3. Every person who shall hereafter faithfully serve as a member of any such company for the term of ten years, and shall conform to all the regulations of the village in reference thereto after becoming eighteen years of age, shall hereafter become exempt from militia duty except in cases of war, insurrection or invasion. But the time when any hook and ladder company shall be unprovided with the proper implements for such company shall not be estimated as part of such ten years. The certificate of the president of any board of such trustees specifying the time when, and the company or companies in which such service of ten years took place, shall be presumptive evidence of such service.

CHAP. 197.

AN ACT authorizing the erection of town houses.

PASSED May 5, 1847; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Money may be voted at town meetings to buy sites.

§ 1. The electors of any town of this state in which there shall not be a town house, at any annual town meeting, may by resolution, vote a sum of money for the purchase of a site for, and the building of a town house, not exceeding in number of dollars, twice the number of electors in said town, provided that a notice of intention to propose such a resolution, shall have been posted, within fifteen days of, and not

less than ten days preceding said meeting, in five of the most public places in said town.

§ 2. Upon proper representation of the action of any town under the first section of this act, the board of supervisors of the county in which such town is situated, may cause the sum so voted, to be collected with the other expenses of said town; or may require the question to be again submitted to the electors of said town at the next annual town meeting.

Amount to be raised by tax.

§ 3. Conveyances for sites, shall be made to the towns; sites shall be purchased and houses erected by the supervisor, town clerk and the justices of the town, and the houses shall be controlled by the supervisor, town clerk and the justice of the peace residing nearest the same; and the electors may from time to time, vote such sum as may be necessary to keep any town house in repair and insured.

Conveyances of sites how made, &c.

§ 4. The board of supervisors in any county, may in their discretion, cause any money or any portion thereof, voted by towns before the passage of this act, for building town houses, to be raised in said towns for such purpose.

Money to be raised.

CHAP. 455.

AN ACT to amend an act entitled "an act to reduce the number of town officers, and town and county expenses, and to prevent abuses in auditing town and county accounts," passed May 10, 1845.

PASSED December 14, 1847; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The second section of the act entitled "an act to reduce the number of town officers, and town and county expenses, and to prevent abuses in auditing town and county accounts," passed May 10, 1845, is hereby amended so as to read as follows:

§ 2. "The electors of each town shall have power at their annual town meeting, to determine by resolution whether there shall be chosen one or three highway commissioners, and the number so determined upon shall be balloted for and chosen; and if only one shall be determined upon and chosen, he shall possess all the powers and discharge all the duties of commissioners of highways as prescribed by law, and shall hold his office for one year. And whenever three commissioners shall be chosen in any town they shall be divided by lot by the canvassers, upon the result of the canvass, into three classes, to be numbered one, two and three; the term of office of the first class shall be one year, of the second, two, and of the third, three; and one commissioner only shall thereafter annually be elected in such town, who shall hold his office for three years, and until a successor shall be duly

The electors to determine whether one or three highway commissioners shall be chosen.

Their powers and term of office.

PART I.

elected or appointed : but in case any commissioner shall be elected to fill a vacancy, he shall hold the office only for the unexpired term which shall have become vacant ; and if two vacancies shall be required to be filled, the canvassers shall, after the canvass, determine by lot as aforesaid, the terms they shall respectively hold. And when any vacancy shall happen by death, removal, resignation, neglect to qualify, or refusal to serve, it shall be supplied until the next succeeding annual town meeting by an appointment in writing, under the hands of any three justices of the peace, or two justices and the supervisor of the town ; and every commissioner of highways shall be authorized to administer oaths to any witnesses or juries, in proceedings which may be had by or before them ; and whenever any town shall have determined upon having three commissioners, and shall desire to return two or have but one, such town shall have the power so to do by a resolution taken at an annual town meeting, and when such resolution shall have been adopted, no other commissioner shall be elected or appointed, until the term or terms of those in office at the time of adopting such resolution shall expire or become vacant ; and they shall have power to act until their terms shall severally become vacant or expire, as fully as if the three continued in office.

27 B., 238 ; 4 D., 260. Ante, p. 304.

§ 2. The fifth section of the said act is hereby amended so as to read as follows :

Damages
how to be
assessed.

§ 5. Wherever any damages are now allowed to be assessed by law when any road or highway shall be laid out, altered or discontinued in whole or in part, such damages shall be assessed by not less than three commissioners to be appointed by the county court of the county in which such road or highway shall be, on the application of the commissioner or commissioners of the town : and the commissioners so appointed shall take the oath of office prescribed by the constitution, and shall proceed, on receiving at least six days notice of the time and place, to meet the highway commissioners and take a view of the premises, hear the parties and such witnesses as may be offered, before them ; and they shall all meet and act, and shall assess all damages which may be required to be assessed on the same highway, and shall be authorized to administer oaths to witnesses which may be produced before them under this section, and when they shall all have met and acted, the assessment agreed to by a majority of them, shall be valid ; and when so made shall be delivered to a commissioner of highways of the town, who within ten days after receiving it, shall file it in the town clerk's office.

46 B., 317 ; 42 B., 263. Ante, p. 304.

Provision
in case
persons
conceive
themselves
aggrieved.

§ 3. Any person conceiving himself aggrieved, or the commissioner or commissioners on the part of the town feeling dissatisfied by any such assessment, may, within twenty days after the filing thereof as aforesaid, signify the same by notice in writing, and serving the same on the town clerk and on

the opposite party, that is, the persons for whom the assessments were made or the commissioner or commissioners of highways as the case may be, asking for a jury to reassess the damages and specifying a time not less than ten nor more than twenty days from the time of filing said assessment, when such jury will be drawn at the clerk's office of an adjoining town of the same county by the town clerk thereof; which notice shall be served upon said opposite party within three days after service upon the town clerk as aforesaid, and may be served personally or by being left at the dwelling house of the party with some person in charge thereof, or if there be no such person, or the house be closed, then by fixing the same upon the outer door of said dwelling house.

§ 4. At the time and place mentioned in the preceding section, the town clerk of such adjoining town, having received three days' previous notice that such jury is to be drawn, from the person or party asking a reassessment, shall deposite in a box the names of all such persons then residents of his town, whose names are on the last list filed in said town clerk's office of those selected and returned as jurors, pursuant to article second, title four, chapter seventh, part third of the Revised Statutes, who are not interested in the lands through which such road shall be located, nor of kin to either or any of the parties, and shall draw therefrom the names of twelve persons, and shall make a certificate of such names and the purposes for which they were drawn, and shall deliver the same to the party first asking for the reassessment.

Names of jurors to be put in box and drawn.

§ 5. The party receiving such certificate shall, within twenty-four hours thereafter, deliver the same to a justice of the peace of the town wherein the damages are to be assessed; and it shall be the duty of such justice forthwith to issue a summons to one of the constables of his town, directing him to summon the persons named in said certificate, and shall specify a time and place in said summons at which the persons to be summoned shall meet, but no meeting of such persons shall be had within twenty days from the time of filing the assessment of damages in the town clerk's office by the commissioner or commissioners of highways. 42 B., 263.

Jury when to be summoned.

§ 6. Upon such persons appearing at the time and place mentioned in the summons, the justice who issued the summons shall draw by lot six of the persons attending to serve as a jury, and the first six persons drawn who shall be free from all legal exceptions, shall be the jury to re-assess all the damages required to be re-assessed upon the same highway; and the said jury shall be sworn by the said justice well and truly to determine and re-assess such damages as shall be submitted to their consideration, and shall take a view of the premises, hear the parties and such witnesses as may be offered by the parties, and sworn by said justice before them and shall render their verdict in writing under their hands, which shall be certified by said justice and be delivered to the

Jurors to be drawn to reassess damages.

PART I.

commissioners of highways of the town, and the same shall be final. 42 B., 263.

Costs by
whom to be
paid.

§ 7. In all cases of assessments of damages under the provisions of this act by commissioners appointed by a county court, the costs thereof shall be paid by the town in which the damages shall be assessed, and in cases of re-assessments of damages by a jury on the application of the commissioners of highways of any town, and the first assessment shall be reduced thereby, the costs of such assessment shall be paid by the party claiming the damages, otherwise by the town; and in case a re-assessment of damages shall be had on the application of the party for whom the damages were assessed, and such party shall fail to increase the same, he shall pay the costs thereof, but when such damages shall be increased by the jury the costs shall be paid by the town; and when applications shall be made by two or more persons for the re-assessment of damages by a jury, such jury shall be obtained in conformity with the terms of the notice first served upon the clerk of the town in which the damages are to be assessed; and all persons who may be liable for costs under this section shall be liable in proportion to the amount of damages respectively assessed to them by the first assessment, and may be recovered in an action of assumpsit at the suit of any person or persons entitled to the same before a justice of the peace.

Right of
appeal.

§ 8. Any person who shall conceive himself aggrieved by any determination of the commissioners of highways, either in laying out, altering or discontinuing any road, or in refusing to lay out, alter or discontinue any road, may at any time within sixty days after such determination shall have been filed in the office of the town clerk, appeal to the county judge of the county in the same manner as appeals were heretofore allowed to be brought to three judges under title first, article fourth, chapter sixteenth, part first of the Revised Statutes; and when any appeal shall be brought under this section, the said judge, or in case of his residence in the town, or of his interest in the lands through which the road shall be laid out, or in case he is of kin to any of the persons interested in said lands, or in case of his disability for any cause, then one of the justices of the sessions shall, after the expiration of the said sixty days, appoint in writing three disinterested freeholders who shall not have been named by the parties interested in the appeal, and who shall be residents of the county but not of the town wherein the road shall be located, as referees to hear and determine all the appeals that may have been brought within the said sixty days, and shall notify them of their appointment, and deliver to them all papers pertaining to the matters referred to them. Upon receiving notice of appointment the said referees shall possess all the powers and discharge all the duties heretofore possessed and discharged by the three judges, and give the same

notices heretofore required to be given under title first, article four, chapter six, part one aforesaid, and before proceeding to hear the appeal or appeals they shall be sworn by some officer authorized to take affidavits to be read in courts of record, faithfully to hear and determine the matters referred to them.

8 N. Y., 481; 29 B., 80; 19 B., 240; 12 B., 193; 46 B., 209, 333; 43 B., 200.

§ 9. Every referee appointed under the preceding section shall be entitled to receive two dollars for every day employed in the hearing and decision of such appeal or appeals, to be paid by the party appealing where the determination of the commissioners shall be confirmed, but where it is reversed, to be a charge upon the county: and when said referees shall make any decision, laying out, altering or discontinuing any road in whole or in part, it shall be the duty of the commissioners of highways of the town to carry out such decision in the same manner as required in cases of final determinations of appeals as provided by the thirteenth section of the act hereby amended, and such decision shall remain unaltered for the term of four years from the time the same shall have been filed in the office of the town clerk.

19 B., 240; 43 B., 200.

Section 10 repealed by Laws of 1853, ch. 174.

§ 11. All damages which may be assessed for laying out or altering any private road, together with the costs of such assessment, shall be paid by the person or persons applying for such road.

Damages and costs, by whom to be paid.

§ 12. All highway appeals which were pending before three judges of county courts on the first Monday of July last, and now remain undetermined, shall be deemed as still pending, and the judges before whom such appeals were pending, shall have full power, and it shall be their duty to proceed and determine such appeals in the same manner and with like effect as if their terms of office had not expired; and whenever any determination has been made by any commissioners of highways since the said first Monday of July, refusing to lay out, alter, or discontinue any highway; any party conceiving himself aggrieved, may appeal therefrom at any time within sixty days after the passage of this act in the manner provided by this act.

Provision respecting appeals pending on the first Monday of July, 1847.

§ 13. The twenty-sixth section of said act, is hereby amended so as to read as follows:

“§ 26. All fees and accounts of magistrates and other officers for criminal proceedings, including cases of vagrancy, shall be paid by the several towns or cities wherein the offence shall have been committed, and all accounts rendered for such proceedings shall state where such offence was committed, and the board of supervisors shall assess such fees and accounts upon the several towns or cities designated by such accounts; but when any person shall be bound over to the oyer and terminer, or court of sessions, or committed to jail

Fees of officers for criminal proceedings by whom to be paid.

PART I.

to await a trial in either of said courts, the costs of the proceedings had before the single magistrate, shall be chargeable upon the towns or cities as aforesaid, and the costs of the proceedings had after the person shall have been so bound over or committed, shall be chargeable to the county; but nothing herein contained shall apply to cases of felonies, nor where the proceedings or trial for the offence shall be had before any court of oyer and terminer or court of sessions of the county, and the fines imposed and collected in any such cases, shall be credited to said towns or cities respectively. And whenever any criminal warrant or process shall be issued by any magistrate residing out of the town or city wherein the offence shall have been committed, it shall authorize the officer executing the same, to carry the person charged with an offence under this act, before any magistrate resident and being in the town or city wherein such offence shall have been committed, to be proceeded against according to the provisions of the fifteenth section of this act; but the magistrate issuing such warrant or process, shall not lose any jurisdiction over the trial and proceedings against any such persons by reason of anything herein contained, nor shall such magistrate be allowed any compensation for any further proceedings in any such case beyond issuing such warrant or process."

Duty of
clerks of
supervisors

§ 14. It shall be the duty of clerks of boards of supervisors on the thirty-first day of December, or within ten days previous thereto, in each year, to make out a statement showing,

1. The amount of compensation audited by the board of supervisors, to the members thereof, severally, within the year, and the items and nature of such compensation as audited.

2. The number of days the board shall have been in session within such year, and the distance travelled by the members respectively, in attending the meeting of the board.

3. Whether any accounts were audited or allowed without being verified according to law, for any member of the board of supervisors, or any other person, and if any, how much, and for what.

And such statement shall be certified by such clerk, and be printed in a newspaper printed in the county, in the manner that the accounts audited by boards of supervisors are now required by law to be printed, within two weeks after said statement shall be so made out, and it shall be the special duty of such clerk to see that the same is so published, and for every intentional neglect so to do, such clerk shall be deemed guilty of a misdemeanor.

§ 15. Section one hundred and twenty-one of article six, title one, chapter sixteen, part one of the Revised Statutes is hereby amended so as to read as follows:

Provision

§ 121. "In case the commissioners of highways of any town

shall be dissatisfied with the determination of the board of supervisors of their county, touching an allowance for any such bridges, such determination shall, on the application of the commissioners, be reviewed by the court of sessions of the same county, whose order in the premises shall be observed by every such board of supervisors." Ante, vol. 1, p. 495.

CHAP. XI
respecting
allowance
made by the
supervisors

§ 16. Town collectors shall be entitled to collect five per cent fees for all unpaid taxes, under the thirtieth section of the act hereby amended; and whenever any such collector shall make return to the county treasurer for any unpaid taxes, he shall add to the several sums so returned by him five per cent, which shall go to the credit of the county, and be collected with said unpaid taxes; and such collector shall be entitled to receive from the county treasury and be paid by the treasurer two per cent as fees for all taxes so returned by him.

Allowances
to town col-
lectors.

§ 17. It shall be the duty of every court at which a grand jury shall be summoned, to charge such jury specially to inquire into any violations of law by public officers in demanding, charging or receiving fees to which they are not entitled by law.

Courts to
charge
grand juries
respecting
fees.

§ 18. It shall be the duty of the secretary of state to cause all the general statute laws of the state which relate to highways and private roads, to be printed in pamphlet form and stitched, together with such forms and instructions as he may deem necessary, and cause a sufficient number of copies thereof to be sent to the several county clerks, to furnish one for each county clerk's office and town clerk's office in the state, and one to each commissioner of highways of the several towns.

Secretary of
state to
publish in
pamphlet
all the laws
relative to
highways.

§ 19. Town clerks shall be allowed the sum of fifty cents for drawing and certifying a jury as provided by this act, and a constable for summoning such jury shall be allowed two dollars, except when the jury shall be taken from the same town wherein the road is located, in which case he shall be allowed only one dollar. And jurors who shall be summoned from an adjoining town, and shall attend but not serve, shall be entitled each to fifty cents, and if they shall serve, then one dollar; if from the same town and shall attend and not serve twenty-five cents; if they shall serve, then fifty cents each.

Allowance
to town
clerks.

§ 20. If for any cause any commissioner or referee appointed under this act shall be prevented from serving, or shall refuse to serve, the court or officer who appointed him shall have power to appoint another to supply his place.

Vacancies
how to be
supplied.

§ 21. All orders for the appointment of commissioners or referees under this act shall be filed and recorded in the office of the town clerk of the town in which the road shall be located.

Orders to be
filed in
town clerks
office.

§ 22. Section sixty-four of title one, article four, chapter sixteen, part first, of the Revised Statutes is hereby amended so as to read as follows:

PART I.
Damages
how to be
ascertained
in certain
cases.

"§ 64. The damages sustained by reason of the laying out and opening such road may be ascertained by the agreement of the owner and the commissioners of highways, provided such damages do not exceed one hundred dollars, and unless such agreement be made, or the owner of the land shall in writing release all claim to damages, the same shall be assessed in the manner prescribed by law, before such road shall be opened, or worked, or used. Every such agreement or release shall be filed in the town clerk's office, and shall forever preclude such owner from all further claim for such damages." 46 B., 317; Ante, vol. 1, p. 474.

Damages
assessed to
be audited
by board of
supervisors

§ 23. All damages which may be finally assessed or agreed upon by commissioners of highways for the laying out of any road except private roads, shall be laid before the board of supervisors by the supervisor of the town to be audited with the charges of the commissioners, justices, surveyors or other persons or officers employed in making the assessment and for whose services the town shall be liable, and the amount shall be levied and collected in the town in which the road is located, and the money so collected shall be paid to the commissioners of such town, who shall pay to the owner the sum assessed to him, and appropriate the residue to satisfy the charges aforesaid.

20 N. Y., 256; 42 B., 263.

Town audi-
tors to
make ab-
stracts of
accounts
for clerk of
supervisors

§ 24. It shall be the duty of boards of town auditors to make annually brief abstracts of the names of all persons who have presented to said board accounts to be audited, the amounts claimed by each of said persons, and the amounts finally audited by them respectively, and shall deliver said abstracts to the clerk of the board of supervisors, and the said clerk shall cause the same to be printed with the statements required to be printed by him by the fourteenth section of this act.

Repeal.

§ 25. The eighth, tenth, and eleventh sections of the act hereby amended, and all laws inconsistent with any of the provisions of this act are hereby repealed.

Counties
excepted.

§ 26. Nothing in this act contained shall apply to the counties of Kings, Queens, Suffolk or New-York.

CHAP. 482.

AN ACT to amend the twenty-ninth section of the act entitled "An act to reduce the number of town officers and town and county expenses, and to prevent abuses in auditing town and county accounts," passed May 10, 1845.

PASSED December 15, 1847; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The twenty-ninth section of the act entitled "An act to reduce the number of town officers and town and county

expenses, and to prevent abuses in auditing town and county accounts," passed May 10, 1845, is hereby amended so as to allow town collectors two per cent fees on all voluntary payments made to them within the thirty days as now provided by law in all cases where the aggregate amount to be collected by warrants when put into their hands shall not exceed the sum of two thousand dollars. Ante, p. 308.

CHAP. 75.

AN ACT to provide for the appointment of commissioners of deeds in the cities of this state.

PASSED March 7, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. Commissioners of deeds in the cities of this state shall be appointed by the common councils of said cities respectively, and all vacancies occurring during the term for which any commissioner shall be appointed, shall be filled in like manner.

Commissioners how appointed.

CHAP. 161.

AN ACT in relation to the appointment of commissioners of deeds, in and for the cities of this state, except the city of New-York.

PASSED March 31, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. In case the mayor and common council of any city in this state, shall have neglected or omitted to pass any such resolution or resolutions as by the second section of title one, chapter five, of the first part of the Revised Statutes, or by any act of the legislature of this state; they were required or authorised to pass, limiting the number of commissioners of deeds and notaries public to be appointed in and for their respective cities, it shall, notwithstanding such neglect or omission, be lawful for the common council of said cities respectively to appoint as many commissioners of deeds in and for their respective cities, under and by virtue of the act entitled "An act to provide for the appointment of commissioners of deeds in the cities of this state," passed March 7th, 1848, as shall have been determined and limited as the number of commissioners of deeds to be appointed in and for their respective cities, by the last resolution passed by them respectively, in pursuance of the second section, of title one,

Power to appoint commissioner of deeds.

PART I.

of chapter five of the first part of the Revised Statutes, or in pursuance of any act of the legislature of this state.

[Section 2 temporary.]

Number to
be limited.

§ 3. The common council of the several cities of this state, except the city of New-York, shall, on or before the first day of January, in the year one thousand eight hundred and fifty-one, and at the end of every two years thereafter, by resolution of the board, determine and limit the number of commissioners of deeds to be appointed in and for said cities respectively. 43 B., 491.

CHAP. 188.

AN ACT to amend an act entitled "An act in relation to firemen in the several cities and villages of this state," passed March 18, 1848.

PASSED April 5, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Privileges
of firemen.

§ 1. Every person who on the first day of May next shall have been a fireman in any of the cities or villages of this state, for the term of four, five or six years, and who shall serve as such one year thereafter; and every person who on the first day of May next shall have been such fireman for a less period of time than four years, and who shall serve as such for so long a time thereafter as shall make the whole term of his service five years, and every person who may become such fireman after the passage of this act and shall serve as such for five years thereafter, shall during and forever after such service be exempted from serving as a juror in any of the courts of this state, and from all militia duty except in cases of insurrection or invasion.

§ 2. The act entitled An act in relation to firemen in the several cities and villages of this state, passed March 18, 1848, is hereby repealed.

CHAP. 217.

AN ACT to provide for the election of Recorders in cities.

PASSED June 18, 1851.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

When to be
elected.

§ 1. In every city of this state, in which the office of recorder exists, (except in the cities of New-York, Rochester and Buffalo,) there shall be elected at the general state election, next preceding the expiration of the term of office of such recorder, a successor of such recorder.

§ 2. It shall be the duty of the inspectors of election in said cities, to provide a separate box; and the name of the person voted for, for the office of recorder, shall be on one ballot, which shall be endorsed "recorder," and shall be deposited in the said box. And all laws relating to general elections shall apply to the elections authorized by this act, so far as the same shall be applicable.

CHAP. 428.

AN ACT to provide for compensating parties whose property may be destroyed in consequence of mobs or riots.

PASSED April 13, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any building or other real or personal property shall be destroyed or injured in consequence of any mob or riot, the city or county in which such property was situated shall be liable to an action by or in behalf of the party whose property was thus destroyed or injured for the damages sustained by reason thereof.

City or
county
liable for
damage.

31 N. Y., 164; 46 B., 659; 28 How. P. R., 353; 27 How. P. R., 343.

§ 2. Such action or actions may be brought and conducted in the same manner that other actions may be prosecuted by law and the judgment may be appealed from in the manner now provided for appeals in civil actions; and whenever any final judgment shall be recovered against any such city or county in any such action the treasurer of said city or county shall upon the production and filing in his office a certified copy of the judgment roll pay the amount of such judgment to the party or parties entitled thereto, and charge the amount thus paid to said city or county.

Recovery,
how col-
lected.

§ 3. No person or corporation shall be entitled to recover in any such action, if it shall appear upon the trial thereof that such destruction or injury of property was occasioned, or in any manner aided, sanctioned, or permitted by the carelessness or negligence of such person or corporation; nor shall any person or corporation be entitled to recover any damages for any destruction or injury of property as aforesaid, unless such party shall have used all reasonable diligence to prevent such damage, and shall have notified the mayor of such city, or the sheriff of such county, immediately after being apprised of any threat or attempt to destroy or injure his or their property, by any mob or riot, of the facts brought to his knowledge; and upon the receipt of such notice, it shall be the duty of such officer to take all legal means to protect the property attacked or threatened; and any such officer or officers who shall refuse or neglect to perform such duty, shall be liable to the party aggrieved for such damages as said party may have sustained by reason thereof, provided said

No recovery when injury is in consequence of person's own negligence.

PART I.

Action
against the
rioters.

party shall elect to bring his action against such officer instead of such city or county. 36 B., 526.

Limitation.

§ 4. Nothing in this act shall be construed to prevent any person or corporation whose property has been injured or destroyed by any mob or riot, from having or maintaining an action against each and every person engaged, or in any manner participating in such riot or mob.

§ 5. No action shall be maintained under the provisions of this act, unless the same shall be brought within three months after the loss or injury. 47 B., 451.

CHAP. 107.

AN ACT in relation to the time for holding annual town meetings.

PASSED April 2, 1859.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The time for holding town meetings shall include the first day of February and the first day of May; and all town meetings which have been held on either of those days shall be as valid and effectual as though they had been held on any day between those days.

CHAP. 476.

AN ACT to supply vacancies in the offices of justices of the peace in the several towns of this state.

PASSED April 18, 1859; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Vacancies
in office of
justice of
the peace,
how filled.

§ 1. Whenever there shall be a vacancy in the office of a justice of the peace in any town in this state, occurring after and in the same year of the regular annual town meeting in such town, the supervisor, town clerk and remaining justices of the peace, or a majority of such officers, are hereby authorized, by warrant under their hands and seals, to appoint a suitable person to fill such vacancy, and the person so appointed shall hold said office until the first day of January next succeeding such appointment. If the vacancy shall occur before the annual town meeting, it may be supplied by appointment in the same manner, and the person so appointed shall hold said office until the annual town meeting, and any person so appointed may qualify immediately in the same manner as if elected, and enter upon the discharge of the duties of said office.

§ 2. Every such appointment shall be filed in the office of the town clerk, and a copy thereof in the office of the county clerk before the person so appointed shall be authorized to act.

CHAP. XI.
Appoint-
ment to
be filed.

CHAP. 58.

AN ACT conferring additional powers on boards of town auditors.

PASSED March 3, 1860; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The board of town auditors of the several towns of this state, in addition to the authority now vested in such board, shall have the power, and it shall be their duty, at their annual meeting, to audit the accounts of the justices of the peace and constables, for fees in criminal cases, which are by law chargeable to any such town, and the amount thereof shall be included in their certificate, and assessed by the board of supervisors of the county upon such town, in the same manner as other town charges are now assessed and collected.

Additional
powers
of town
auditors.

As amended by Laws of 1866, ch. 832.

§ 2. All acts and parts of acts inconsistent with this act are hereby repealed.

For additional sections see Laws of 1866, ch. 832. Post, vol. 6, p. 867.

CHAP. 281.

AN ACT to regulate places of public amusement in the cities and incorporated villages of this State.

PASSED April 17, 1862; three-fifths being present.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall not be lawful to exhibit to the public in any building, garden or grounds, concert room, or other place or room within the city of New-York, any interlude, tragedy, comedy, opera, ballet, play, farce, negro minstrelsy, negro or other dancing, or any other entertainment of the stage, or any part or parts therein, or any equestrian, circus or dramatic performance, or any performance of jugglers, or rope dancing acrobats, until a license for such exhibition shall have been first had and obtained pursuant to and at the same rate provided for theatrical performances in an act entitled "An act to amend an act entitled 'An act to create a fund in aid of the society for the reformation of juvenile delinquents in the city of New-York, and for other purposes,' passed February first, eighteen hundred and thirty-nine;" and every manager or proprietor of any such exhibition or performance, who shall neglect to take out such license, or consent to, cause, or allow

Certain
amuse-
ments for-
bidden
until li-
censed.

Penalty.

PART I.

any such exhibition or performance, or any single one of them without such license, and every person aiding in such exhibition, and every owner or lessee of any building, part of a building, garden, grounds, concert room or other room or place, who shall lease or let the same for the purpose of any such exhibition or performance, or assent that the same be used for any such purpose, except as permitted by such license, and without such license having been previously obtained and then in force, if the same shall be used for such purpose, shall incur the penalties and be subjected to the proceedings for an injunction provided for by the other provisions contained in the said act, which penalty the society for the reformation of juvenile delinquents in said city are hereby authorized to prosecute, sue for and recover for the use of the said society, in the name of the people of the State of New-York.

Selling
liquor pro-
hibited.

And female
waiters.

In certain
cases no
license
given.
In certain
cases an-
nulled.

In certain
cases re-
voked.

§ 2. It shall not be lawful to sell or furnish any wine, beer or strong or spirituous liquors to any person in the auditorium or lobbies of such place of exhibition or performance mentioned in the first section of this act, or in any apartment connected therewith by any door, window or other aperture; nor shall it be lawful to employ or furnish or permit or assent to the employment or attendance of any female to wait on or attend in any manner or furnish refreshments to the audience or spectators or any of them, at any of the exhibitions or performances mentioned in the first section of this act, or at any other place of public amusement in the city of New-York.

§ 3. No license shall be granted for any exhibition or performance given in violation of the second section of this act, and any and every exhibition or performance at which any of the provisions of the second section of this act shall be violated, shall of itself vacate and annul and render void and of no effect any license which shall have been previously obtained by any manager, proprietor, owner or lessee consenting to, causing or allowing or letting any part of a building for the purpose of such exhibition and performance; and any license provided for by the first section of this act, may be revoked and annulled by the officer or officers granting the same, upon proof of a violation of any of the provisions of this act; such proof shall be taken before such officer upon notice of not less than two days, to show cause why such license should not be revoked; said officer shall hear the proofs and allegations in the case, and determine the same summarily, and no appeal shall be taken or review be had from such determination, and any person whose license shall have been revoked or annulled, shall not thereafter be entitled to a license under the provisions of this act. On any examination before an officer pursuant to a notice to show cause as aforesaid, the accused party may be a witness in his own behalf.

Violation
of act mis-
demeanor.

§ 4. Any person violating any of the provisions of this act or employing or assenting to the employment or attendance of any person contrary to the provisions of this act, shall be

deemed guilty of a misdemeanor, and upon conviction, shall be punished by imprisonment in the penitentiary for a term not less than three months nor more than one year, or by a fine not less than one hundred dollars nor more than five hundred dollars, or by both such fine and imprisonment.

§ 5. It shall be the duty of every chief of police, sheriff, deputy sheriff, constable, captain of police, policeman, and every other police officer, to enter at any time said places of amusement, and to arrest and convey any person or persons violating any provision of this act, forthwith, before any police justice or recorder or magistrate having jurisdiction in said city, there to be dealt with according to law.

CHAP. XII
Penalty.

Duty of
chief of
police and
other offi-
cers.

§ 6. The provisions of this act shall apply to all the cities and incorporated villages of this state, but the license to be obtained in every city or incorporated village, other than the city of New-York, shall be issued under such terms and under such regulations as the municipal authorities of the said cities or villages may respectively prescribe; and the fines and penalties for any violation of any of the provisions of this act in such other cities or incorporated villages respectively, other than as mentioned in section four of this act, shall be sued for and recovered in the name of the overseer of the poor of such city or incorporated village, or the town in which such incorporated village is situate, or such other officer as the municipal or village authorities thereof may direct, for the benefit of the poor thereof.

Applied to
all cities
and incor-
porated
villages.

Overseers
of the poor
and other
officers may
sue for
penalties.

20 How. P. R., 289.

CHAPTER XII.

Of Counties and County Officers.

CHAP. 352.

AN ACT relative to the Office of Superintendent of the Poor.

PASSED May 2, 1829.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. No supervisor of any town, or county treasurer, shall be appointed to hold the office of superintendent of the poor in any county in this state.

Supervisor
ineligible.

CHAP. 237.

AN ACT relative to Deputy Clerks of Counties, and of Clerks in Chancery.

PASSED April 22, 1831.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The deputy of any county clerk may perform all the duties of such clerk whenever such clerk shall be absent from

PART I.

his office, except that of deciding upon the sufficiency of sureties of any officer.

CHAP. 506.

AN ACT relative to constables' fees, and to auditing accounts by boards of supervisors, and for other purposes.

PASSED May 26, 1836.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Mileage.

§ 1. Whenever a subpoena for witnesses in criminal cases or complaints, containing one or more names, shall be served by a constable or other officer, such officer shall be allowed for mileage only for the distance, going and returning, actually travelled to make such service upon all the witnesses in such case of complaint, and not separate mileage for each witness, unless the board of supervisors auditing accounts for such services shall deem it equitable to make a further allowance.

Repeal.

§ 2. Such parts of section four, title eight, chapter two of the fourth part of the Revised Statutes, as are inconsistent with the first section of this act, shall be and the same are hereby repealed.

Oath.

§ 3. The chairman of any committee appointed by a board of supervisors, is hereby authorized to administer an oath to any person presenting an account or claim before such committee to be audited, as to services rendered, and the correctness of such claim.

Witnesses
in a foreign
county.

§ 4. Whenever it shall become necessary to send subpoenas into a foreign county for witnesses on criminal process, the district attorney is hereby empowered to send them to the sheriff of the county in which the said witnesses reside, whose duty it shall be to serve the same, and make his return without delay to such district attorney.

CHAP. 465.

AN ACT in relation to the office of surrogate.

PASSED May 16, 1837.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Power of
first judge
when acting
as surro-
gate.

§ 1. Whenever it becomes necessary for the first judge of any county to act as surrogate thereof, by reason of a vacancy in the office of surrogate, he shall use the seal of the surrogate court of said county, and shall file in the said surrogate office, all papers, vouchers and documents received by him, and which are required to be retained by the surrogate.

§ 2. All papers, vouchers and documents, which may have been received by any first judge in the discharge of the duties of such surrogate as aforesaid, and filed by him in the surrogate office, shall have the like force and effect as if filed in the office of the county clerk as required by the Revised Statutes.

CHAP. XII.
Papers filed
by him,

CHAP. 58.

AN ACT concerning commissioners of loans.

PASSED March 8, 1838.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. No person holding the office of commissioner for loan- Restriction
ing the moneys belonging to the United States, deposited with the state of New-York for safe keeping, under the act passed April 4, 1837, shall be eligible to the office of supervisor of any town or ward of this state.

§ 2. No supervisor of any town or ward shall be eligible to the office of commissioner under the act aforesaid.

CHAP. 314.

AN ACT to enlarge the powers of boards of supervisors.

PASSED April 18, 1838.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The board of supervisors of each county in this state shall, in addition to the powers now conferred on them by law, have power, at their annual meeting, or when lawfully convened at any other meeting, Power to
raise money

1. To cause to be levied, collected and paid to the treasurer For bridges
of the county, such sum of money as may be necessary to construct and repair bridges therein; and to prescribe upon what plan and in what manner the moneys so to be raised shall be expended.

2. To apportion the tax so to be raised, among the several towns and wards of their county, as shall seem to them to be equitable and just.

3. To cause to be levied, collected and paid, all such sums For court-
house and
jail.
of money as they shall deem necessary for rebuilding or repairing the court-house or jail of their county; or for building, rebuilding or repairing the clerk's office of the county, and to prescribe upon what plan and in what manner the moneys so raised shall be expended.

4. To appoint special commissioners to lay out public high- To appoint
special
commis-
ways in those cases where they shall be satisfied that the road

PART I.
Commissioners of
highways.

applied for is important, and that the authority now conferred by law upon commissioners of highways, cannot or will not be exercised to accomplish the laying out of such road.

12 N. Y., 58.

Money for
roads and
bridges.

5. To cause to be levied, collected and paid, in the manner now provided by law, such sum of money, in addition to the sum now allowed by law, not exceeding five hundred dollars in any one year, as a majority of the qualified voters of any town may at any legal town meeting have voted to be raised upon their town, for constructing or repairing roads and bridges in such town.

1 H., 53.

Notice to be
put up.

§ 2. No moneys shall be raised under the authority conferred by the fifth subdivision of the preceding section, unless a written notice of the application to such town meeting to raise such amount, shall be posted on the door of the house where the town meeting is to be held, and also at three public places in such town for two weeks before the town meeting, and be also openly read to the electors present, immediately after the opening of the meeting.

Notice to be
published.

§ 3. All persons intending to apply to any board of supervisors for the imposing any tax pursuant to the first section of this act, except in cases under the fifth subdivision of that section, shall cause a notice of such application to be published once in each week for four successive weeks immediately preceding the meeting of the board of supervisors at which such application shall be made, in a newspaper printed in such county; but if no newspaper be printed in the county, then such notice shall be published in like manner, in some public newspaper printed nearest thereto.

1 H., 53.

Special commis-
sioners to
be paid.

§ 4. The supervisors shall have power to provide for the payment to the special commissioners to be appointed under the fourth subdivision of the first section of this act, for their time and expenses. The decisions made by said commissioners may be appealed from, and reviewed in the same manner and with the like authority as is allowed by law in the cases of roads laid out by the commissioners of highways of any town. The roads so to be laid out by such special commissioners, or the same as settled on appeal, shall be recorded, opened and worked as public highways of the towns in which they are respectively situated, in the same manner as other highways of the town are now required by law to be recorded, opened and worked.

Special
meeting of
board.

§ 5. Special meetings of the boards of supervisors of any county may be called by the clerk of the board at any time, on the written request of a majority of the supervisors of the county.

CHAP. 369.

AN ACT relative to Boards of Supervisors and to the town of Vernon in the county of Oneida.

PASSED May 7, 1839.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be the duty of the Boards of Supervisors in each county in this state, annually to publish in one or more public newspapers in such county the name of every individual who shall have had any account audited and allowed by said board, and the amount of said claim as allowed together with the amount claimed, and also their proceedings upon the equalization of the assessment roll.

Names of claimants to be published.

[Sections 2 and 3 are local.]

CHAP. 189.

AN ACT in relation to the fees of County Treasurers.

PASSED May 11, 1846.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The several County Treasurers of this state shall hereafter receive for their services instead of the fees now allowed by law such compensation as shall be fixed by the respective boards of supervisors of their respective counties not exceeding the one-half of one per cent for receiving and the half of one per cent for disbursing, and in no case to exceed the sum of five hundred dollars per annum. 33 N. Y., 274.

Pay of county treasurers.

§ 2. This act shall not extend to or in any way apply to the city and county of New-York, nor to the county of Kings.

Not applicable to New York or Kings.

§ 3. All laws inconsistent with the provisions of this act are hereby repealed.

CHAP. 498.

AN ACT to authorize the election of county superintendents of the poor and county treasurers by the people.

PASSED December 16, 1847.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be lawful hereafter for the board of supervisors in any county at any annual meeting of such board to direct by resolution that thereafter only one county superin-

When only one superintendent.

PART I.

tendent of the poor shall be elected in and for such county who shall hold his office for three years, but in all counties where no such resolution shall have been passed, three county superintendents of the poor shall be elected.

When to be elected.

§ 2. Said superintendent or superintendents and the county treasurer shall be elected at the general election in November, 1848, in the same manner that other county officers are chosen.

When three superintendents.

§ 3. In counties where only one superintendent of the poor shall be chosen he shall hold his office for three years, but in counties where three are chosen one of the said superintendents so elected shall hold his office for one year, one for two years and one for three years, and the clerk of the county shall on the first day of January after such election determine by lot which of said superintendents shall hold his office for one year, which for two and which for three years, and annually thereafter there shall be elected one superintendent who shall hold his office for three years.

Vacancies how to be filled.

§ 4. Boards of supervisors shall appoint county superintendents of the poor or county treasurers to fill vacancies which may happen in such offices.

See Laws of 1848, ch. 136.

Other laws made applicable.

§ 5. All laws now in force not inconsistent with the provisions of this act, applicable to county superintendents of the poor and county treasurers shall apply to the officers elected or appointed pursuant to this act, and all laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

Not applicable to New York.

§ 6. None of the provisions of this act shall apply to the city and county of New York.

CHAP. 4.

AN ACT to provide for the filling of vacancies in the office of Sheriff.

PASSED January 22, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

Vacancies how filled.

§ 1. Whenever a vacancy exists or shall occur in the office of sheriff, the governor shall appoint some fit person, who may be eligible to the office, to execute the duties thereof, until the commencement of the political year next succeeding the first annual election, after the happening of the vacancy.

Powers of person appointed.

§ 2. The person so appointed, after taking the oath of office, and executing the proper bond, shall possess all the rights and powers, and be subject to all the liabilities, duties and obligations of such officer.

CHAP. 136.

AN ACT to provide for the election of county treasurers and fix their term of office.

PASSED March 27, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The county treasurer in each of the several counties of this state shall be elected at a general election, and shall hold his office for three years; and except, in the county of Kings, shall enter upon the duties of his office on the first day of January next after his election.

County treasurers how elected

As amended by Laws of 1849, ch. 360.

§ 2. Any vacancy happening in the office of county treasurer shall be filled by appointment by the board of supervisors until the first of January succeeding the next general election thereafter.

Vacancy how filled.

CHAP. 164.

AN ACT to amend an act entitled "An act to enlarge the powers of board of supervisors," passed May 18, 1838.

PASSED April 3, 1848.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The power given to boards of supervisors, by subdivision four, of section one, of the act entitled "An act to enlarge the powers of boards of supervisors," passed April 18, 1838, to appoint special commissioners to lay out public highways, shall not be exercised by any board of supervisors, unless the applicant therefor shall prove to such board of supervisors the service of a notice in writing, on a commissioner of highways of each town through and into which any such highway is intended to be laid, at least six days previous to presenting such application, specifying therein the object thereof, and names of persons proposed to be appointed such commissioners.

Provision as to opening public highways.

CHAP. 194.

AN ACT to vest in the board of supervisors, certain legislative powers, and to prescribe their fees for certain services.

PASSED April 3, 1849; "three-fifths being present."

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The board of supervisors of the several counties in this state, the county of New-York excepted, at their annual

Power of the board to alter the

PART I.
bounds and
to erect
new town.

Survey and
map when
to be made
and filed in
secretary's
office.

And printed
with laws.

Notice to
be posted
up and also
published.

Name of
new town
to be de-
signated
and first
meeting ap-
pointed.

Lands may
be bought
to erect
poor houses
on.

meeting, shall have power within their respective counties, by a vote of two-thirds of all the members elected, to divide or alter in its bounds, any town, or erect a new town, but they shall not make any alterations that shall place parts of the same town in more than one assembly district; upon application to the board as hereinafter provided (of at least twelve freeholders of each of the towns to be affected by the division) and upon being furnished with a map and survey of all the towns to be affected showing the proposed alterations, and if the application be granted, a copy of said map with a certified statement of the action of said board thereunto annexed, shall be filed in the office of the secretary of state, and it shall be the duty of the secretary to cause the same to be printed with the laws of the next legislature, after such division takes place; and cause the same to be published in the same manner as other laws are published.

24 N. Y., 86; 8 N. Y., 474.

§ 2. Notice in writing of such intended application subscribed by not less than twelve freeholders of the town or towns to be affected, shall be posted in five of the most public places in each of the towns to be affected thereby for four weeks next previous to such application to the board of supervisors, and a copy of such notice shall also be published for at least six weeks successively, immediately before the meeting of the board of supervisors, at which the application is to be made, in all the newspapers printed in the county, not exceeding three in number.

§ 3. Whenever the board of supervisors shall erect a new town in any county, they shall designate the name thereof, the time and place of holding the first annual town meeting therein, and three electors of such town, whose duty it shall be to preside at such meeting, appoint a clerk, open and keep the polls, and exercise the same powers as justices of the peace when presiding at town meetings, and in case any of the said electors shall refuse or neglect to serve, the electors of the said town present at such meeting, shall have power to substitute some elector of said town, for each one so refusing or neglecting to serve. Notice of the time and place of such town meeting, signed by the chairman or clerk of the board of supervisors, shall be posted in four of the most public places in said town, by the persons so designated to preside at such town meeting, at least fourteen days before holding the same. They shall also fix the place for holding the first town meeting in the town or towns from which such new town shall be taken. But nothing in this act shall affect the rights or abridge the term of office of any justice of the peace or other town officer in any such town, whose term of office has not expired.

§ 4. The said boards of supervisors shall have power, and they are hereby authorized,

1. At any meeting thereof lawfully assembled, to purchase

for the use of said county any real estate necessary for the erection of buildings, and for the support of the poor of such county.

2. To purchase any real estate necessary for a site for any court house, jail, clerk's or surrogate's office, or other public county buildings in said county.

To erect court house &c.

3. To fix upon and determine the site of any such buildings, where they are not already located.

Sites to be fixed.

4. To authorize the sale or leasing of any real estate belonging to such county, and prescribe the mode in which any conveyance shall be made.

Sale of lands.

5. To remove or designate a new site for any county buildings, when such removal shall not exceed one mile.

New sites.

6. To cause to be erected necessary buildings for poor houses, jails, clerk's and surrogate's offices, or other county buildings, and prescribe the manner of erecting the same.

Erection of buildings.

7. To cause to be raised by tax upon such county any sum of money to erect any of the buildings mentioned in this act, not exceeding the sum of five thousand dollars in any one year.

Raising of money by tax.

8. To borrow money for the use of such county, to be expended in the purchase of any real estate, or for the erection of any such buildings, and to provide for the payment thereof, with interest, by tax upon such county, within ten years from the date of such loan, in yearly instalments or otherwise.

Borrowing money for county use.

9. To authorize any town in such county, by a vote of such town, to borrow any sum of money not exceeding four thousand dollars in one year, to build or repair any roads or bridges in such town, and prescribe the time for the payment of the same, which time shall be within ten years, and for assessing the principal and interest thereof upon such town.

For town use.

10. To abolish or revive the distinction between the town and county poor of such county.

Poor.

11. To fix the time and place of holding their annual meetings.

Annual meeting.

12. To extend and determine by resolution at their annual meeting the time when each collector in said county shall make return to the county treasurer; but such time shall in no case extend beyond the first day of March then next.

Collection of taxes.

13. To make such laws and regulations as they may deem necessary and provide for the enforcing of the same, for the destruction of wild beasts, thistles and other noxious weeds, to prevent the injury and destruction of sheep by dogs, and to levy and enforce the collection of any tax upon dogs, and to direct the application of such tax, and to provide for the protection of all kinds of game, of shell and other fish within the waters of their respective counties: and all laws of this state now existing in relation to preserving or destroying, killing and taking wild beasts or birds, fish, eels, and shell fish, are hereby repealed, such repeal to take effect on the first day of January, in the year eighteen hundred and fifty.

Laws to destroy wild beasts, thistles, &c.

PART I.
County officer to report.

14. To require any county officer, or any officer whose salary is paid by the county, to make a report under oath, to them, on any subjects or matters connected with the duties of their offices, and the said officers are hereby required to make such report whenever called upon, by resolution of any such board; and if any such officer neglect or refuse to make such report he shall be deemed guilty of a misdemeanor.

29 B., 482.

Powers in the 4th section by what vote to be exercised.

§ 5. None of the powers prescribed in the last section shall be exercised except by a vote of a majority of all the members elected in the county, nor shall such powers be exercised under the fifth, tenth and thirteenth subdivisions of said section, without a vote of two-thirds of all the members elected to such boards.

Location of public buildings may be changed.

§ 6. The boards of supervisors shall also have power, within their respective counties, to change the location of court houses, jails, clerks' offices, surrogates' and treasurers' offices, or other public buildings, when the distance shall not exceed one mile upon notice having been given signed by at least twelve freeholders, for six successive weeks immediately before any meeting of such board, and specifying the new site, and published in some newspaper printed in the county, but the power granted in this section for the removal of public buildings where the distance exceeds one mile shall not be exercised unless at the next annual meeting after the publication of the aforesaid notice, a resolution shall be passed to change the site of the building or buildings, to the place mentioned in said notice, by a vote of two-thirds of all the members elected and then only, upon said resolution being published for at least six weeks successively in some newspaper printed in the county, immediately previous to the next annual meeting of the supervisors, when by a vote of two-thirds of all the members elected, the said resolution being again passed, shall go into effect.

Every resolution to be signed and recorded.

§ 7. Every resolution of any board of supervisors passed in pursuance of the provisions of this act, shall be signed by the chairman and clerk of such board, and be recorded in the book of miscellaneous records of such county.

Comptroller to loan money to towns and counties.

§ 8. The comptroller is hereby authorized to loan to any of the towns or counties of this state, any money in the treasury belonging to the capital of the common school fund, as is authorized by this act to be borrowed by any county or town, whenever application is made to him by the treasurer of such county.

Securities to be given for loans.

§ 9. When such moneys are loaned to such county, the treasurer thereof shall execute his official bond for the payment thereof, and when loaned to any town the supervisor thereof shall execute his official bond in like manner.

Allowance to supervisors for travel, &c.

§ 10. Each supervisor shall receive over and above the per diem compensation now allowed by law, eight cents per mile for all necessary travel in the discharge of his official duties,

and three cents for each name (for making a copy of the assessment roll of his town and making out the tax bill to be delivered to the collector,) for the first hundred names, two cents per name for the second hundred names, and one cent per name for each name over two hundred. But no per diem allowance shall be made to any supervisor while employed making out such copy of tax.

§ 11. Nothing in this act contained shall abridge the powers of any board of supervisors which they now possess, and which are not inconsistent with the provisions of this act, and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Repeal,

CHAP. 346.

AN ACT to extend the time for county treasurers to take the oath of office and file their official bond.

PASSED April 10, 1850.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. County treasurers hereafter to be elected may have until the fifteenth day of December next after their election, to take the oath of office prescribed by law and file their official bond. Where to take oath and file bond.

§ 2. It shall be the duty of the board of supervisors of the several counties to fix the penalty of the bond of the treasurer of the county at their next meeting after the election of such treasurer, and the sureties may be approved by the county clerk and chairman of the board of supervisors, in the recess of the board of supervisors. Penalty of bond and approval of sureties.

§ 3. This act is only to apply to the counties where the annual meetings of the board of supervisors is held before the annual election. Application of this law.

CHAP. 211.

AN ACT authorizing county clerks to appoint special deputies.

PASSED April 17, 1851.

The People of the State of New-York, represented in Senate and Assembly, do enact as follows:

§ 1. The clerk of each county in this state, is hereby authorized to appoint some suitable person as special deputy, who shall possess the same power and authority as the said clerk, to attend and do all things in and about the courts of said county. May appoint deputy.

PART I.
To be in
writing.

§ 2. Such appointment shall be in writing, and be filed in the clerk's office of the county; and such special deputy, before he enters upon the duties of his office, shall take the oath required by the constitution and laws of this state, and shall hold his office during the pleasure of such clerk.

CHAP. 304.

AN ACT to authorize the board of supervisors of the several counties in this State to make the office of District Attorney a salaried office, and to fix the salary thereof.

PASSED April 14, 1852; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Office of
district
attorney to
be salaried.

§ 1. The board of supervisors of the several counties in this state, at any annual meeting of such board duly convened, may lawfully determine that the office of district attorney of such county shall be a salaried office, and thereupon it shall be their duty, and they are hereby authorized to fix the amount of compensation to be paid to the district attorney thereof for his services; and the salary, when so fixed, shall not be increased or diminished during the term for which the district attorney has been, or may be elected.

Compensation
a county
charge.

§ 2. The compensation fixed shall be a county charge, and shall be paid by the county treasurer to the district attorney, yearly or quarter yearly as the board of supervisors may determine, in lieu of the fees now provided by law; and the amount thereof shall be raised and collected in the same manner, and at the same time as other county charges are by law raised and collected.

Duty of
clerk of
board of
supervisors

§ 3. Whenever any board of supervisors shall determine the office of district attorney to be a salary office, and fix the compensation thereof, pursuant to this act, the clerk of said board shall deliver to the person filling the office of district attorney of such county, a certified copy of the resolution of said board; and if such person shall, within ten days thereafter, give notice in writing to the said clerk, that he refuses to accept such salary as a compensation for his services, this act shall not be construed to apply to such district attorney during the term for which he shall have been elected; but the same, and the resolution of the said board, shall, in that case, apply to the successors in office of the said district attorney.

Counties
where it is
a salary
office.

Not to act
as justice of
peace.

§ 4. In those counties in the state where the office of district attorney is now a salary office, the salary shall remain the same until altered by the board of supervisors in pursuance of this act.

§ 5. No district attorney shall act as a justice of the peace.

CHAP. XII.
All fees,
costs, &c.
to be paid
over to
county
treasurer.

§ 6. It shall be the duty of any district attorney, whose salary is, or shall be hereafter fixed by the board of supervisors, of the county in which such district attorney is elected, within thirty days after the receipt by him of any money for judgments, fees, or costs in suits brought upon recognizances or otherwise, received or collected by him by virtue of his office, to pay over the same, except his taxable disbursements therein, to the treasurer of said county, for the use of the county.

§ 7. All laws inconsistent with this act are hereby repealed.

Laws incon-
sistent
repealed.

CHAP. 249.

AN ACT to authorise Boards of Supervisors to adopt seals, and to make certified copies of their records and proceedings evidence.

PASSED April 10, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The board of supervisors of any county in this state may adopt a seal, and when so adopted, the clerk of such board shall cause a description thereof, together with an impression therefrom, to be filed in the office of the county clerk and in the office of the secretary of state, and the same shall thereupon be the seal of the board of supervisors of such county.

Seal.

§ 2. Copies of all papers duly filed in the office of the clerk of the board of supervisors of any county, and transcripts from the books of records kept therein, certified by such clerk, with the seal of office affixed, shall be evidence in all courts and places, in like manner as if the originals were produced.

Records
when evi-
dence.

CHAP. 108.

AN ACT to authorize clerks of boards of Supervisors to administer oaths in certain cases.

PASSED April 7, 1856.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The clerks of boards of supervisors of the several counties in this state, shall have the same power as the chairman thereof, to administer oaths to any person concerning any matter submitted to the board, or connected with their powers or duties.

CHAP. 190.

AN ACT to enlarge the powers of the Boards of Supervisors.

PASSED April 14, 1858; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Witnesses
may be
summoned
by chair-
man of
board.

§ 1. Whenever the board of supervisors of any county shall deem it necessary or important to examine any person as a witness, upon any subject or matter within the jurisdiction of such board or to examine any officer of the county, in relation to the discharge of his official duties, or to the receipt or disbursement by him of any moneys, or concerning the possession or disposition by him of any property belonging to the county; or to use, inspect or examine any book account, voucher or document, in the possession of such officer or other person, or under his control relating to the affairs or interests of such county, the chairman or president of such board shall issue a subpoena in proper form, commanding such person or officer to appear before such board at a time and place therein specified, to be examined as a witness, and such subpoena may contain a clause requiring such person or officer to produce on such examination all books, papers and documents in his possession, or under his control, relating to the affairs or interests of the county.

Duty of
sheriff.

§ 2. It shall be the duty of the sheriff, or any deputy sheriff or constable of the county, to whom the subpoena may be delivered, to serve the same by reading it to the person named therein, and at the same time delivering him a copy thereof; and his official return thereon, of the time and place of such service, shall be prima facie evidence thereof.

Committee,
power of.

§ 3. Whenever the board of supervisors shall have appointed any member of their body, a committee upon any subject or matter of which the board has jurisdiction, and shall have conferred upon such committee power to send for persons and papers, the chairman of such committee shall possess all the powers, and be liable to all the duties herein given to and imposed upon the chairman or president of the board of supervisors.

Person sub-
poenaed.

§ 4. Whenever any person duly subpoenaed to appear and give evidence, or to produce any books and papers as herein provided, shall neglect or refuse to appear, or to produce such books and papers, according to the exigency of such subpoena, or shall refuse to testify before such board or committee, or to answer any question which a majority thereof shall decide to be proper and pertinent, he shall be deemed in contempt, and it shall be the duty of the chairman of the board or of the committee as the case may be, to report the facts to the

county judge or to a judge of the supreme court, or of the superior court, or of the court of common pleas of any of the cities of this state, who shall thereupon issue an attachment in the form usual in the court of which he shall be judge, directed to the sheriff of the county where such witness was required to appear and testify, commanding the said sheriff to attach such person, and forthwith bring him before the judge by whose order such attachment was issued.

§ 5. On the return of the attachment, and the production of the body of the defendant, the said judge shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted as in case of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a circuit or special term of the supreme court.

§ 6. The board of supervisors and any committee appointed by the board with power to send for persons and papers, may adjourn from time to time, and such committee may hold meetings in pursuance of such adjournment, or on call of the chairman thereof, during the recess, or after the final adjournment of the said board of supervisors; but whenever an attachment shall have been issued according to the provisions of this act, and is not returned, such adjournment of the board or committee at whose instance it was issued shall be to a time and place certain, of which notice shall be given by the chairman to the judge before whom the said attachment shall be returnable, and in such case if the person against whom it issued, shall be arrested, he shall not be discharged from custody until he shall have entered into a bond to the board of supervisors of the county, in the penalty of two hundred and fifty dollars, with two sufficient sureties to be approved by the said judge, with a condition that he will appear and submit to an examination before such board or committee as the case may be, at the time and place to which it shall have adjourned.

§ 7. Such bond shall be filed in the office of the clerk of the county, and if default shall be made in the condition thereof it shall be the duty of the district attorney of said county to sue for and collect the same, and the money when received, and all moneys received for fines and penalties under and by virtue of the provisions of this act, shall be paid into the treasury of the county for the benefit of the poor of said county.

§ 8. All orders, decisions and judgments made and given in proceedings under this act, by any judge out of court or term shall be in writing subscribed by him, and shall be filed in the office of the clerk of the county where such proceedings are had, and the clerk shall thereupon enter the proper and necessary orders and rules, and such orders, decisions and

Attachment.

Board may adjourn, &c.

Bond.

Orders, decisions, &c.

PART I.

Power to
administer
oaths.

judgments, shall have the like force and effect, as if made and given by the court at a regular term or session thereof.

§ 9. The chairman of the board of supervisors, and the chairman of any committee of such board, shall severally have power to administer oaths and affirmations to witnesses to be examined before such board or committee, and every witness so examined shall be obliged to answer all such questions as he would be held bound to answer in the same case in a court of justice according to the rules of evidence; but the testimony of any witness examined under the provisions of this act, shall not be given in evidence or used against him, on the trial of any indictment or criminal prosecution, other than for perjury committed on such examination.

CHAP. 213.

AN ACT requiring officers acting as surrogates to give security.

PASSED April 14, 1858.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Every county judge, special county judge, or other officer who is now authorized by any law or proper authority of this state to act as surrogate, shall execute a bond to the people of this state, on or before the first day of May next, in the same manner and with the same conditions as are required of surrogates by part one, title two, chapter twelve, article six, section one hundred and nineteen of the third edition of the Revised Statutes.

§ 2. Every county judge, special county judge, or other officer hereafter elected or appointed under any law, or by any proper authority in this state, who shall be authorized to act as surrogate, shall before entering upon or discharging any of the duties of surrogate, execute a bond in the same manner as is required in section first of this act.

CHAP. 386.

AN ACT requiring county treasurers to file in the county clerk's office a report of the moneys and securities in their hands belonging to infants.

PASSED April 16, 1859.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

County
treasurers
to file re-
port in

§ 1. The county treasurer of every county in this state shall, within ten days after the first day of July of each and every year, make and file in the county clerk's office of the county in

CHAP. XII.
county
clerk's
office.

which he resides, a report, which shall contain a statement of all moneys or securities in his hands belonging to infants or to other persons; for whom invested; how invested, with a particular description of the securities belonging to each infant, containing a statement of the amount due thereon for principal and of the amount due thereon for interest, with a particular statement of his account as to each infant, up to the first day of July preceding the date of said report; the amount of fees charged by him; the amount in his hands invested and uninvested; and to whom the same belong; and if he has in his hands any moneys not invested the said report shall state the amount thereof; the length of time the same has been in his hands uninvested and the reasons why the same has not been invested; the said report shall also state whether the moneys in his hands uninvested is for principal or interest, and the length of time any principal sum shall have remained in his hands uninvested during the year preceding the date of said report; which report shall be verified by the oath of the county treasurer to be in all respects true.

§ 2. The official bonds of any county treasurer executed after the passage of this act, shall be held to apply to all the moneys and securities mentioned in the first section of this act, and the supervisors of any county may require such new or additional security at any time for the safe keeping and application of such moneys and securities as they may deem proper. In case any county treasurer shall neglect to file his report as required in the first section of this act, he shall forfeit the sum of five hundred dollars to the people of the state of New York, for the use of the poor of the county.

Bond of
treasurer.

§ 3. The time for the making and filing of the report required by the first section of this act may be extended twenty days, by a justice of the supreme court, upon good cause shown, but no order shall be made enlarging the time for the filing of such report unless notice of the application for such order shall have been served upon the district attorney of the county, and proof of such service furnished to the justice making the order; and no order enlarging the time for the making of such report shall be of any force or effect until the order shall have been entered on the book kept for the entry of orders made by the supreme court and the original order, signed by the justice, with the papers upon which the same was granted, shall have been filed in the clerk's office of the county.

Time for
making and
filing re-
port may
be extend-
ed.

§ 4. In case the county treasurer shall not file his report as specified in this act, it shall be the duty of the district attorney of the county to bring an action in any court having cognizance thereof, in the name of the people of the state of New York, against such county treasurer, to recover the penalty provided for in the second section of this act.

County
treasurer to
file report.

CHAPTER XIII.

Taxation and Assessments.

CHAP. 108.

AN ACT in relation to the Redemption of Lands sold for Taxes in certain Cases.

PASSED April 5, 1830.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Notice to be served on occupant.

§ 1. In all cases of lands hereafter to be sold for arrears of taxes, it shall be the duty of the purchaser, or of the person claiming under him, of any lands which shall be occupied at the time of the expiration of the two years given for the redemption thereof, to serve upon such occupant the notice required by section eighty-three, of title three, of chapter thirteen, of part first, of the Revised Statutes, within two years from the expiration of the said time of redemption.

So amended by Laws of 1844, ch. 266; 12 N. Y., 545.

Copy to be filed in comptroller's office.

§ 2. Within one month after the service of such notice, it shall be the duty of the person serving the same, or procuring it to be served, to file in the office of the comptroller, a copy of the notice served, together with the proof of service required by section eighty-seven, of title three, of chapter thirteen, of part first, of the Revised Statutes.

Time for redeeming lands limited.

§ 3. The time for redeeming any lands so occupied, and pursuant to the notice so to be served as aforesaid, shall be within six months from and after the time of filing in the comptroller's office of the evidence of the service of the said notice as required in the last preceding section, and not the six months mentioned in the notice as required by section eighty-five, of title three, of chapter thirteen, of part first, of the Revised Statutes.

3 B. Ch., 580.

Terms.

§ 4. The occupant of any such lot, or any other person may, at any time before the service of the said notice by the purchaser or the person claiming under him, redeem any lands so occupied, by filing in the office of the comptroller satisfactory evidence of the occupancy required, and by paying into the treasury the consideration money for which the lands to be redeemed were sold, and thirty-seven and a half per cent thereon, together with the sum paid for the comptroller's deed.

Lands heretofore sold may be redeemed in certain cases.

§ 5. The occupant of any lands heretofore sold for taxes, and which were or shall be occupied at the expiration of the two years allowed for the redemption thereof, the owner of such occupied lands, or any other person, may, at any time

before the service of notice by the purchaser, or the person claiming under him, redeem any lands so occupied as aforesaid, in the manner specified in the fourth section of this act, provided the title of the purchaser shall not have become perfect prior to such redemption.

§ 6. Upon any redemption being made as permitted by the two last preceding sections, the receipt of the treasurer, countersigned by the comptroller, and accompanied by the certificate of the comptroller required by section eighty-six of title three of chapter thirteen of part first of the Revised Statutes, shall be prima facie evidence that such land has been correctly redeemed; but in every such certificate, the comptroller shall state that the redemption was made without notice.

Proof of
such re-
demption.

CHAP. 11.

AN ACT relative to the sales of lands for taxes.

PASSED February 11, 1835.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any certificate given by the comptroller for lands sold for taxes, shall be lost or wrongfully withheld by any person from the owner thereof, the comptroller may receive evidence of such loss or wrongful detention, and on satisfactory proof of the fact, may issue a deed to such person as may appear to him to be the rightful owner of the land described in the certificate.

Lost certifi-
cates of
sale.

CHAP. 117.

AN ACT in addition to the Revised Statutes, relating to the equalization of the assessments and the correction of the assessment rolls.

PASSED April 9, 1836.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The clerk of the board of supervisors of the several counties in this state, shall on or before the second Monday in December in each year, transmit to the comptroller by mail in the form which shall be prescribed by the comptroller, a certificate or return of the aggregate valued amount of real and personal estate in each town or ward, as corrected by the board of supervisors. The clerk who shall neglect or refuse to make such return, shall forfeit to the people of this state the sum of fifty dollars.

Real and
personal
estate to be
reported.

CHAP. 461.

AN ACT to provide for the collection of taxes.

PASSED May 25, 1836.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*Powers of
county
treasurers.

§ 1. Whenever it shall satisfactorily appear to the treasurer of any county in the state, that any state or county tax legally assessed within his county, (not assessments on real estate of non-residents,) can not be collected by reason of the removal of the person so assessed to any other county of this state, it shall be lawful for the said treasurer to issue a warrant under his hand and seal, and certified by the clerk of the county, that he is such treasurer, to any constable or sheriff of the county where such person resides, to collect the same out of the personal property of such person.

Witnesses.

§ 2. It shall be lawful for such treasurer to issue subpoenas for witnesses, and take testimony in relation to such assessment and removal, and to administer oaths to such witnesses.

Duty of
sheriff or
constable.

§ 3. Any sheriff or constable receiving such warrant, shall execute the same, and make the like returns, and be entitled to the same fees, and subject to the same liabilities and penalties for neglect, as upon executions from any court:

CHAP. 341.

AN ACT to authorize the sale of real estate in certain cases to pay assessments, and for other purposes.

PASSED May 26, 1841.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*Apportion-
ment of tax
or assess-
ment on
lands held
by several
persons in
cities.

§ 1. In all cases where any real estate situated within the bounds of any city or village in this state, is owned by several persons having estates therein, in possession, reversion or remainder, and such real estate, or any part thereof, has been sold, or shall hereafter be sold, or is liable to be sold for any term of years, to satisfy any tax or assessment imposed thereon by the authorities of any such city or village, upon a bill filed by any person interested in such estate against other persons interested therein, for the purpose of compelling a just and equitable apportionment of such tax or assessment amongst those liable to contribute to the payment thereof, or the redemption of the premises so sold, the court of chancery shall have power at any time on the application of any party to such suit, to extend the time of redemption of any such land sold or to be hereafter sold by authority of such city or

Powers of
court of
chancery.

village, to a period not exceeding six months from the entry of the final decree to be made in such cause, or to order a sale in fee of any part or parts of such real estate to pay such tax or assessment, or to redeem such parts thereof as may hereafter be sold at any time during the progress of such cause, and to direct the proceeds of such sale to be applied to the payment of such tax or assessment or to the redemption of the lands sold for the satisfaction of such tax or assessment.

6 N. Y., 364; 24 B., 142; 11 Pai., 488.

§ 2. Whenever the person entitled to a future estate in such lands as are mentioned in the preceding section, cannot be ascertained, the court of chancery shall have and exercise all the powers and authority conferred in that section, whenever the persons having vested estates shall be made parties to a bill filed for the purposes therein specified.

16 N. Y., 249.

§ 3. In any final decree made in a cause instituted in the court of chancery for the purposes mentioned in this act, such court shall compel a just and equitable apportionment to be made by all persons having different estates in such lands as are herein before specified, and liable to contribute to the payment of such tax or assessment, or to the redemption of such parts thereof as may have been sold by the authority of any city or village; and if any portions thereof have been sold by virtue of any order made during the progress of the cause, or by the authority of such city or village, whereby the interest or estate of one party has been charged with or made to contribute more than a just and equitable proportion of such tax or assessment, such excess shall be deemed and decreed to be a lien upon the interest and estate of the other parties, in such proportions as shall be equitable and just.

§ 4. Nothing in this act contained shall be construed to affect or impair any contract or covenant heretofore or hereafter made respecting the payment of any such taxes or assessments on real estate, or to change the relative rights of the several persons having any estate therein as to their liability to such payments.

See act amendatory Laws of 1854, ch. 393. Post, p. 354

Proceedings in cases of unknown owners of future estates.

Contributions by owners, how compelled.

Contracts for payment of taxes, &c not affected.

CHAP. 154.

AN ACT in relation to the sale of real estate to pay assessments.

PASSED April 11, 1842.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All sales made on an order of the court of chancery for the payment of assessments pursuant to any law of this state, shall be made by or under the direction of one of the masters

Sales made by order of chancery.

PART I.

Effect of
deeds to
purchasers.

of said court, in the county where the premises or some part thereof are situated.

§ 2. Deeds shall thereupon be executed by such master, which shall vest in the purchaser the entire estate, as well present as future, of each and every of the parties to such suit or suits.

16 N. Y., 249.

Feigned
issue may
be ordered.

§ 3. In case any person or party in any such suit in the court of chancery, shall question the validity of the assessment or assessments, which are to be paid out of the proceeds of sale, it shall be the duty of the court to order a feigned issue to be tried in the circuit court, to determine the validity thereof, or in some other manner ascertain the same.

CHAP. 318.

AN ACT in addition to the provisions of the Revised Statutes, regulating the collection of taxes, and the proceedings in relation to unpaid taxes.

PASSED April 12, 1842.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Payment
how to be
enforced in
case of
refusal or
neglect.

§ 1. In case of the refusal or neglect of any person to pay any tax imposed on him for personal property, if there be no goods or chattels in his possession upon which the same may be levied by distress and sale according to law, and if the property assessed shall exceed the sum of one thousand dollars, the collector of the town or ward, if he has reason to believe that the person taxed has debts, credits, choses in action, or other personal property not taxed elsewhere in this state, and upon which levy cannot be made according to law, shall report the same to the assessors of the town or ward. And any assessor may thereupon in his discretion make application within one year to the court of common pleas of the county, or to the supreme court, to enforce the payment of such tax.

Punish-
ment may
be inflicted
if payment
cannot be
enforced.

§ 2. The neglect or refusal to pay such tax according to law, shall be held and deemed to be a neglect or violation of duty or misconduct within the provisions of Title thirteen of Chapter eight of the third Part of the Revised Statutes; and the court upon application of an assessor as herein provided, and due proof, may proceed to enforce the payment or punish the misconduct in the same manner, and with the like authority, as is provided in the above mentioned Title of the Revised Statutes in regard to offences therein made punishable, or to the enforcing the payment of money by fine and imprisonment, or either of them.

Court may
inflict fine
for miscon-
duct.

§ 3. The court may impose a fine for the misconduct mentioned in the next preceding section, sufficient in amount, for

the payment of the tax assessed, and of the costs and expenses of the proceedings authorized by this act to enforce such payment, or to punish such misconduct; and the amount of such tax shall be paid out of such fine, to the county treasurer of the county, who shall apply the same in like manner as the tax was required to be applied, if the same had been collected by the collector; and the costs and expenses of such proceedings shall be paid out of such fine to the assessor who made the application, to enforce the payment of the tax.

§ 4. Whenever any bond taken under the provisions of this act, for the appearance of the defendant, shall become forfeited and shall be ordered to be prosecuted, such order shall operate as an assignment of the bond to the county treasurer of the county, who shall be authorized to prosecute the same in any court of record in his name, as county treasurer of such county, as the assignee of the officer to whom the bond was given, in the same manner as in other actions on bonds, with conditions to perform covenants, other than for the payment of money; and the measure of damages in such action shall be the extent of such tax and the costs and expenses of the proceedings to enforce the payment thereof, and shall be applied and paid in like manner as the fine mentioned in the next preceding section is therein directed to be applied and paid; and in all such actions, if the plaintiff recovers, he shall recover all costs against the defendant.

Bond when considered assigned to county treasurer.

CHAP. 266.

AN ACT to extend the time for giving notice to occupants of lands sold for taxes and requiring mortgagees to file a notice with the comptroller.

PASSED May 4, 1844.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 2. The notice required to be given to mortgagees under and by virtue of the act entitled, "An act authorizing mortgagees to redeem real estate sold for taxes and assessments," passed May 14, 1840, in cases of sales by the comptroller of the state shall be directed to such person or persons as shall within two years from the time of such sale, file in the office of the comptroller a notice stating the name of the mortgagor and mortgagee, the date of the mortgage and the amount claimed to be due thereon, and the county and town and tract in which the mortgaged premises are situate with the number of the lot on which said mortgage is claimed to be a lien, with the name of the person or persons claiming notice and their residence and the post-office to which such notice shall be addressed; in case such mortgagee or other person shall

Mortgagees to file notice with the comptroller.

. PART I.

omit or neglect to file such notice with the comptroller, within the said two years, then such mortgagee or other person shall be barred from all claim to redemption by virtue of such mortgage and the title of the purchaser shall be valid and effectual, and so much of the act hereby amended as is inconsistent with this act is hereby repealed.

3 B. Ch., 580. See Post, vol. 4, p. 625.

Former
sales.

§ 3. This act shall extend to all lands heretofore sold by the comptroller for taxes, if the time for giving notice has not already expired.

CHAP. 327.

AN ACT to equalize taxation.

PASSED May 13, 1846.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Duty of
assessors.

§ 1. It shall be the duty of the assessors of each town and ward, while engaged in ascertaining the taxable property therein, by diligent inquiry, to ascertain the amount of rents reserved in any leases in fee, or for one or more lives, or for a term of years exceeding twenty-one years, and chargeable upon lands within such town or ward, which rents shall be assessed to the person or persons entitled to receive the same, as personal estate, which it is hereby declared to be, for the purpose of taxation under this act, at a principal sum, the interest of which at the legal rate per annum shall produce a sum equal to such annual rents; and in case such rents are payable in any other thing except money, the value of such annual rents in money shall be ascertained by the assessors, and the same shall be assessed in manner aforesaid.

15 N. Y., 452; 7 B., 250; 4 B., 11.

Duty of
boards of
supervisors

§ 2. The board of supervisors in each county shall assess the taxes to be raised for town, county, and state purposes, upon the person or persons entitled to receive such rents within the town or ward where the lands upon which such rents are reserved and situated, in the same manner and to the same extent as any personal estate of the inhabitants of such town.

Tax may be
levied by
distress.

§ 3. If such tax shall not be paid, the collector shall levy the same by distress and sale of the goods and chattels of the person against whom the same was assessed, within the town or ward of such collector in the same manner as if such person was an inhabitant of such town or ward.

Duty of
county
treasurer.

§ 4. When it shall appear by the return of any collector made according to law, to a county treasurer, that any tax imposed under the provisions of this act, remains unpaid, such county treasurer shall issue his warrant to the sheriff of any county where any real or personal estate of the person upon

whom such tax is imposed may be found, commanding him to make of the goods and chattels and real estate of such person the amount of such tax, together with one dollar for the expense of issuing such warrant, and to return the said warrant to the treasurer issuing the same, and to pay to him the money which shall be collected by virtue thereof by a certain time therein to be specified, not less than sixty days from the date of such warrant.

§ 5. Such warrant shall be a lien upon and shall bind the real and personal estate of the person against whom the same shall be issued from the time an actual levy shall be made by virtue thereof; and the sheriff to whom such warrant shall be directed, shall proceed upon the same in all respects with the like effect, and in the same manner as prescribed by law, in respect to executions against property issued by a county clerk upon judgments rendered by a justice of the peace, and shall be entitled to the same fees for his services in executing the same, to be collected in the same manner.

Warrant to be a lien on real and personal estate.

§ 6. In case of the neglect of any sheriff to return such warrant according to the directions therein, or to pay over any money collected by him in pursuance thereof, he shall be proceeded against in the supreme court by attachment, in the same manner, and with the like effect, as for similar neglects in reference to an execution issued out of the supreme court in a civil suit, and the proceedings thereon shall be the same in all respects.

Sheriff to be proceeded against in case of neglect.

§ 7. If any such warrant shall be returned unsatisfied in whole or in part, the county treasurer, under the direction of the board of supervisors of his county, may file a bill in his name of office in the court of chancery, whatever may be the amount so remaining unsatisfied against the person against whom such warrant was issued, and any other person having the possession of his property, for the discovery and sequestration of such property. And on the filing of such bill, the court of chancery shall order such part of the property of the person upon whom the tax specified in the said warrant was, imposed as shall be necessary for the purpose of satisfying the taxes in arrear and imposed as aforesaid, with the cost of such prosecution, to be sequestered, and may order and direct such other proceedings as may be necessary to compel the payment of such tax and costs.

Provision in case of warrant being returned unsatisfied.

CHAP. 176.

AN ACT to amend the law for the assessment and collection of taxes.

PASSED April 15, 1851; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

[Sections 1, 2, 3, 4 amend sections 2, 5, 17 and 20 and repeal sections 15, 16, 22, 23, 24, 25, 26, of Title 2 of Chap. 13 of First Part of the Revised Statutes.]

Penalty for neglect.

§ 5. If the assessors shall wilfully neglect to hold the meeting specified in the last preceding section, each assessor so neglecting shall be liable to a penalty of twenty dollars, to be sued for and recovered before any court having jurisdiction thereof, by the supervisor of the town, for the use of the poor of the same town; and in case of such neglect to meet for review, any person aggrieved by the assessment of the assessors may appeal to the board of supervisors, at their next meeting, who shall have power to review and correct such assessment.

For section 6 see, Laws of 1857, ch. 536. Post, p. 373.

Oaths.

§ 7. The assessors of the several towns and wards of this state, shall have power to administer oaths to any person applying to them under the provisions of the sixth section of this act.

Assessment roll to be sworn to.

§ 8. When the assessors, or a majority of them, shall have completed their roll, they shall severally appear before one of the justices of the town or city in which they shall reside, and shall severally make and subscribe before such justice, an oath, in the following form:

We, the undersigned, do severally depose and swear that we have set down, in the foregoing assessment roll, all the real estate situated in the (town or ward, as the case may be,) according to our best information; and that, with the exception of those cases in which the value of the said real estate has been changed by reason of proof produced before us, we have estimated the value of the said real estate at the sums which a majority of the assessors have decided to be the full and true value thereof, and at which they would appraise the same in payment of a just debt due from a solvent debtor; and also that the said assessment roll contains a true statement of the aggregate amount of the taxable personal estate of each and every person named in such roll, over and above the amount of debts due from such persons respectively, and excluding such stocks as are otherwise taxable, and such other property as is exempt by law from taxation, at the full and true value thereof, according to our best judgment and belief. Which oath shall be written on said roll, signed by the assessors, and certified by the justice, and shall be in place of the

official certificate now required by law; and every assessor who shall wilfully swear false in taking and subscribing said oath, shall be deemed guilty of, and liable to the penalties, of wilful and corrupt perjury.

23 N. Y., 194, 245; 21 N. Y., 460; 16 B., 250, 655; 35 N. Y., 464.

CHAP. 371.

AN ACT to subject certain debts owing to non-residents to taxation.

PASSED July 2, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All debts owing by inhabitants of this state to persons not residing within the United States for the purchase of any real estate, shall be deemed personal property, within the town or county where the debtor resides, and as such shall be liable to taxation in the same manner and to the same extent as the personal estate of citizens of this state.

Debts owing for the purchase of real estate taxable.

§ 2. If there shall reside in any county of this state an agent of any non-resident creditor having debts owing to him of the description mentioned in the first section of this act, he shall on or before the twenty-fifth day of July in each year, furnish to the county treasurer of each county where such debtor resides, the true and accurate amount of debts of the description mentioned in the first section of this act, which were owing on the first day of January preceding, to the principal of such agent, in each town in such county, which shall be verified by the oath of such agent taken before any officer authorised to administer oaths.

Agents of non-resident creditor to report to county treasurer.

§ 3. Any such agent who shall refuse or neglect, without good and sufficient cause, to furnish such list shall forfeit the sum of five hundred dollars to the use of each county in which such debtor resides, to be sued for by the treasurer of such county in his name of office, and to be recovered upon proof that the principal of such agent had debts owing to him by inhabitants of such county, of the description mentioned in the first section of this act and that the existence of such debts was known to such agent.

Penalty for not making report.

§ 4. The county treasurer, on receiving such statement, shall immediately make out and transmit to the assessors of the several towns of his county in which any such debtor resides, an abstract or copy of so much of such statement as relates to the town of such assessor, with the name of such creditor.

Abstract to be sent to assessors.

§ 5. The assessors on receiving such abstract or statement from the county treasurer, shall within the time in which they are now required by law to complete their assessment roll,

Name and amount due to be entered on assessment roll.

PART I.

enter thereon the name of such non-resident debtor, and the aggregate amount due him in such town, on the first day of January preceding, in the same manner other personal property is entered on said roll.

Unpaid
taxes how
collected.

§ 6. When it shall appear by the return of any collector, made according to law to a county treasurer, that any tax imposed on a debt owing to a person not residing in the United States, remains unpaid, such county treasurer shall, after the expiration of twenty days from the return of such collector, issue his warrant to the sheriff of any county in this state, where any debtor of such non-resident creditor may reside, commanding him to make of the goods and chattels and real estate of such non-resident, the amount of such tax to be specified in a schedule annexed to the said warrant, together with his fees and the sum of one dollar for the expense of issuing such warrant, and to return the said warrant to the treasurer issuing the same, and to pay over to him the money which shall be collected by virtue thereof, except the said sheriff's fees, by a certain day therein specified, within sixty days from the date of such warrant.

Warrants
how made
out.

§ 7. The taxes upon several debts owing to the non-resident shall be included in one warrant, and the taxes upon several debts owing to different non-residents may be included in the same warrant, and where several non-residents are included in the same warrant, the sheriff shall be directed to levy the sums specified in the schedule thereto annexed, upon the personal and real property of the non-residents respectively, opposite to whose names, respectively, such sums shall be written, together with the sum of fifty cents upon each non-resident, for the expense of such warrant.

Lien of
warrant.

§ 8. Such warrant shall be a lien upon, and shall bind the real and personal estate of the non-residents against whom the same shall be issued, from the time an actual levy shall be made upon any property by virtue thereof; and the sheriff, to whom such warrant shall be directed, shall proceed upon the same, in all respects, with the like effect and in the same manner as prescribed by law in respect to executions against property, issued upon judgments rendered in the supreme court, and shall be entitled to the same fees for his services in executing the same, to be collected in the same manner.

Sheriff, how
proceeded
against for
neglect to
return
warrant.

§ 9. In case of the neglect of any sheriff to return such warrant according to the direction therein, or to pay over any money collected by him in pursuance thereof, he shall be proceeded against in the supreme court, by attachment, in the same manner and with the like effect, as for similar neglects in reference to an execution issued out of the supreme court in a civil suit, and the proceedings thereon shall be the same in all respects.

Proceed-
ings when
warrant
returned
unsatisfied.

§ 10. If any such warrant shall be returned unsatisfied in whole or in part, the county treasurer, or in the city and county of New-York the comptroller therein, under the direc-

tion of the board of supervisors may obtain an order from a judge of the supreme court, or a county judge of the county to which said warrant was issued requiring such non-resident, or any person having property of such non-resident, or indebted to him, to appear and answer concerning the property of such non-resident, and the same remedies and proceedings may be had in the name of the county treasurer or comptroller before the officer granting such order and with the like effect as are provided by the statute, in case of a judgment debtor after the return of an execution against him, unsatisfied in whole or in part.

§ 11. The expenses of county treasurers and such compensation as their boards of supervisors shall allow them for their services in executing this act, shall be county charges; and the expenses and charges for the services of assessors under this act, shall be town charges, and audited and paid as such.

Expenses
of treasurer
and assess-
or how paid

CHAP. 69.

AN ACT extending the time for the collection of taxes when stayed by injunction or otherwise.

PASSED March 31, 1853; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. In all cases where proceeding for the collection of taxes are by injunction or order of a court of record stayed or suspended beyond the time allowed by law for the collector's return, the collector shall make his return at the time appointed by law of such portion of such taxes as have been collected by him, if any, and set forth the facts of such stay or suspension, and the collector or other officer having a warrant or process for the collection thereof may, after such stay or suspension of proceedings is terminated or removed and notwithstanding the period for the collection thereof under said warrant or process may expire, proceed in the same manner and with the same effect to collect the same as if his warrant or process was still in force and the same shall be deemed in full force and effect for such purposes.

CHAP. 393.

AN ACT to amend an act entitled "An act to authorize the sale of real estate in certain cases to pay assessments, and for other purposes," passed May 26, 1841.

PASSED April 17, 1854; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Lots remaining unsold may be sold for subsequent taxes and assessments.

§ 1. In case any order or decree heretofore made or entered, or hereafter to be made or entered, under or by virtue of the power or authority contained in said act, shall embrace, or direct to be sold, a greater quantity or number of portions or lots of land than shall, on the sale under the said order or decree, be found necessary to be sold in order to raise or produce an amount of money sufficient to meet and satisfy the requirements of the said order or decree; and if, after such sale, any tax or assessment shall be levied or imposed on the parcels or lots of land embraced in the order or decree, remaining unsold as aforesaid, it shall be lawful and competent for the court in which such order or decree was entered, from time to time, upon the petition of either of the parties to the suit in which such order or decree was entered, to direct a sale of so many of the said lots so remaining unsold, and subsequently taxed or assessed as aforesaid, as shall be necessary to pay and satisfy such subsequent taxes or assessments, and the costs and expenses of the application and the proceedings thereupon.

Validity of such sale.

§ 2. All sales or conveyances, made under or by virtue of an order made or granted on such petition, shall be as valid and effectual, to pass the estate in the land conveyed, as the sales and conveyances first made under or by virtue of the original order or decree.

Notice.

§ 3. The court shall, on presenting such petition, direct notice to be published for six successive weeks, and once at least in each week, in two or more public newspapers printed in the county where the said lands are situated, and in the state paper, setting forth the general objects of the petition, and the time and place at which it will be again presented to the court; and shall also direct such notice, and a copy of such petition, to be served personally upon all persons who have become interested by transfer or assignment in such lots of land, or portions thereof, remaining unsold since the making of such order or decree, and who shall have recorded such assignment in the office provided by law for the record of deeds in the county where said lots are situated. At such time, or as soon thereafter as the court can hear the same, and upon due proof of such publication and service, said petition may be presented, and a motion made for said order:

any party in interest may show cause (if any there be) why the order prayed for should not be granted. The said publication of notice shall be deemed and held to be sufficient service, upon all the parties to the suit and their representatives, of the petition and the notice of motion for the order.

CHAP. 37.

AN ACT amendatory of the acts for the assessment and collection of taxes.

PASSED February 27, 1855; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All persons and associations doing business in the state of New York, as merchants, bankers, or otherwise, either as principals or partners, whether special or otherwise, and not residents of this state, shall be assessed and taxed on all sums invested in any manner in said business, the same as if they were residents of this state; and said taxes shall be collected from the property of the firms, persons or associations to which they severally belong.

Tax on non-resident bankers.

23 N. Y., 234, 243; 35 N. Y., 439; 31 N. Y., 322; 29 How. P. R., 41; 26 How. P. R., 417.

CHAP. 327.

AN ACT to provide for the due apportionment of taxes and assessments, and for the sale of real estate to pay the same.

PASSED April 12, 1855; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In all cases where there are several persons interested at law or in equity, in any real estate situate within the bounds of any city or village in this state, either as owning estates therein, in possession, reversion or remainder, or as being presumptively entitled by virtue of any deed or will to such estates, on the death of any person or persons, in being, or upon the happening of any contingency in such deed or will specified, and such real estate or any part thereof has been sold, or shall hereafter be sold, or is, or shall become liable, in case of default to be sold for any term of years, to satisfy any tax or assessment imposed thereon, then and in every such case, upon any action brought by any person so interested therein, for the purpose of compelling a just and equitable apportionment of such tax or assessment upon the several present, future and presumptive interests as aforesaid, in such real estate, and the payment thereof, or the redemp-

Court may order sale in certain cases.

PART I.

tion of the real estate so sold accordingly; the supreme court shall have power at any time, on the application of any party to such action to extend the time of redemption of any such real estate sold or to be hereafter sold by authority of such city or village, to a period not exceeding six months from the entry of the final judgment to be given in such action and to order a sale in fee simple absolute for such real estate, or any part or parts thereof, to pay such tax or assessment or to redeem the same or any part thereof as aforesaid, and to direct the proceeds of such sale to be applied to the payment of such tax or assessment, or to the redemption of the real estate sold for such tax or assessment, after defraying the costs, charges and expenses of the action, and the proceedings connected therewith.

16 N. Y., 248; 24 B., 142.

Redemption by agreement.

§ 2. Like proceedings may be had to redeem by agreement with the purchaser of any real estate so sold or hereafter sold as aforesaid, after the time allowed by law for redemption shall have expired: but every such agreement shall be ratified and approved by the court and the redemption thereof shall be evidenced by the deed of the purchaser, his heirs, or assigns, granting the property to some party in the action expressed, to be made in the extinguishment of the tax or assessment title pursuant to this act.

Proceedings in case of unknown owners.

§ 3. If any person so interested as aforesaid, in said real estate is unknown, or if either of the known parties to such action, whether minors or of full age, reside out of the state, or cannot on inquiry had be found therein, and that fact made to appear to the satisfaction of the court by affidavit, an order may be made by the court containing a sufficient description of the premises of which, or of part whereof a sale is sought, and requiring all parties interested therein to appear and answer the action by a day in said order specified, which order shall be published for three months once at least in each week successively in the state paper, and in a newspaper printed in the county where the premises are situated, if there be any, and if there is none, then in a newspaper printed in the city of New-York. The publication of such order shall authorise a judgment as by default against all such unknown persons and parties, not resident in this state or not found therein, as shall not appear and answer accordingly, and all such unknown persons as may appear on such notice may be made parties to the action and the complaint may be amended for that purpose.

Presumptive owners may be made parties.

§ 4. The court in its discretion may direct any person not already made a party to such action, who shall seem to be presumptively entitled as in the first section of this act specified, to be so made a party thereto. And whenever, in any action to which all persons having vested estates at law or in equity shall have been made parties, or shall have been so proceeded against as unknown owners, a sale shall be had as

aforesaid by order of the court; such sale shall vest in the purchaser a fee simple absolute at law and in equity, in the property so sold.

§ 5. All sales to be directed as aforesaid shall be made by or under the direction of a referee, to be for that purpose appointed by the court, who shall have power to perfect every such sale by executing under his hand and seal a deed to the purchaser.

Sales how made.

§ 6. The third and fourth sections of the act entitled "An act to authorise the sale of real estate in certain cases to pay assessments and for other purposes," passed May twenty-sixth, eighteen hundred and forty-one, and the third section of the act entitled "An act in relation to the sale of real estate to pay assessments," passed April eleventh, eighteen hundred and forty-two, shall apply to actions under this act.

Certain acts to apply.

16 N. Y., 249.

CHAP. 427.

AN ACT in relation to the collection of taxes on lands of non-residents, and to provide for the sale of such lands for unpaid taxes.

PASSED April 13, 1855; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

TITLE I.

OF THE PAYMENTS AND RETURNS TO BE MADE BY THE COUNTY TREASURERS, AND THE DUTY OF THE COMPTROLLER AND OTHER OFFICERS THEREUPON.

§ 1. The treasurer of each county shall pay to the creditors of his county, from the moneys paid to him by the collectors, such sums, and in such manner as the board of supervisors shall have directed.

County debts.

38 B., 610.

§ 2. The several county treasurers shall, on or before the first day of March in each year, pay to the treasurer of this state, the amount of the state tax, if any, raised and paid over to them respectively, retaining the compensation to which they may be entitled.

State tax when to be paid.

§ 3. Such payment may also be made by depositing such money, to the credit of the treasurer of this state, in such banks in the cities of New-York or Albany as shall have been designated by the comptroller, and shall then be entitled to receive the state deposits, and in case of such payment to either of those banks, the county treasurer making it, shall forthwith transmit a certificate of deposit to the comptroller, who shall thereupon certify such payment to the state treasurer, and charge him with the amount thereof.

How paid.

PART I.
Certificate
of unpaid
taxes.

§ 4. Whenever any county treasurer shall receive from a collector an account of unpaid taxes assessed on lands of non-residents, such county treasurer shall compare the same with the original assessment roll, which original rolls the collectors are required in all cases to return and deposit with their respective county treasurers; and if he finds it to be a true transcript thereof, he shall add to it a certificate showing that he has examined and compared the account with the assessment roll, and found the same to be correct; and after crediting the collector with the amount, shall, before the first day of April next ensuing, transmit the account and the collector's affidavit, to the comptroller, with a certificate that he has compared the account with the entries of the same taxes, in the original assessment roll, and has found the same to be a true transcript of such roll.

Tax on
land vacant
by removal
of occu-
pant.

§ 5. If the taxes on any farm or lot of land, assessed to a resident, shall be returned as unpaid, in consequence of such premises becoming vacant by the removal of the occupant, before the collection of the tax imposed thereon, or in default of goods and chattels of the occupant to satisfy such tax, the supervisor of the town in which such land was assessed, shall add a description thereof to the assessment roll of the next year in the part thereof appropriated to taxes on lands of non-residents, and shall charge the same with the uncollected tax of the preceding year; and the same proceedings shall be had thereon, in all respects, as if it was the land of a non-resident, and as if such tax had been laid in the year in which the description is so added.

Non-resi-
dent lands.

§ 6. Whenever the taxes upon the lands of a resident shall be returned for non-payment, as provided in the last preceding section, to the county treasurer, the collector shall annex to such return an affidavit, stating the reasons why such tax was not collected. Nothing in said last preceding section shall be so construed as to conflict with sections one, two and three of chapter four hundred and sixty-one, laws of eighteen hundred and thirty-six, but they shall be concurrent remedies.

Tax may
be paid to
treasurer.

§ 7. Any person whose lands are assessed, may pay the tax assessed thereon to the treasurer of the county in which such lands were assessed, provided such payment be made to the county treasurer before he shall have made his annual return of the arrears of taxes to the comptroller. The county treasurer shall give a receipt for such payment, and shall also make return thereof to the comptroller.

Apportion-
ment of
state tax.

§ 8. The comptroller shall, from the annual returns made to him of the valuations of real and personal estates in the several counties in this state, charge the several county treasurers with the amount of the state taxes, if any, to be raised in their respective counties, crediting them with their own fees; but no fees shall be allowed by the comptroller to the county treasurers, in adjusting the accounts of the county treasurers, for such portion of the state tax as is paid by

credit given for taxes on non-resident property returned to him.

§ 9. Whenever any account of arrears of taxes on the lands of non-residents shall be transmitted by a county treasurer to the comptroller, he shall examine them, and reject all taxes that shall be found to be charged on lands imperfectly described, and credit such county treasurer, in a book to be kept by the comptroller for that purpose, with the amount of all arrears of taxes which shall be admitted by him.

Lands imperfectly described.

§ 10. If the arrears so credited to the treasurer of any county shall exceed the state tax, if any, in said county, the comptroller shall cause the surplus, after deducting therefrom any balance which may be due from such county on account of taxes previously rejected by the comptroller, to be paid out of the treasury of this state, to the treasurer of the county; and the whole amount of taxes so to be assumed by the state, shall be collected for its benefit, in the manner hereinafter provided. If there be no state tax, the whole amount of such arrears, after deducting such balance as above mentioned, shall be paid to the county treasurer.

Arrears how paid.

§ 11. The comptroller shall state the accounts of the several county treasurers, on the first day of May in every year; and whenever any part of a state tax shall appear to be unpaid by any county treasurer, the comptroller shall transmit by mail to such county treasurer a copy of his account, requiring him to pay the balance within thirty days.

Accounts with county treasurer.

§ 12. If any county treasurer shall refuse or neglect to pay such balance within such time, the comptroller shall forthwith, (unless he shall be satisfied by due proof that such treasurer has not received such balance, and has taken all proper steps to collect the same,) deliver a copy of such county treasurer's account to the attorney general, who shall prosecute forthwith; and the state shall be entitled to recover the balance due, with interest thereon, from the first day of May, in the year when the same ought to have been paid.

Suits for neglect to pay.

§ 13. The comptroller may also, in his discretion, direct the board of supervisors of the proper county, to institute one or more suits on the bond of such treasurer and his sureties.

Bond to be sued.

§ 14. If the defendants in any suits to be brought under either of the last two preceding sections, shall at any time before judgment is obtained therein, pay the balance due the state, with interest, into the treasury, or account for the same to the comptroller, it shall be his duty, on payment of costs of suit, to direct such suits to be discontinued.

Suits when to be discontinued.

§ 15. It shall be the duty of the comptroller, on or before the first Tuesday in October, in every year, to furnish the boards of supervisors of the several counties, from which returns of arrears of taxes shall have been received at his office, with statements of the sums paid out of the state trea-

Statement of arrears

PART I.
Certificate
of unpaid
taxes.

§ 4. Whenever any county treasurer shall receive from a collector an account of unpaid taxes assessed on lands of non-residents, such county treasurer shall compare the same with the original assessment roll, which original rolls the collectors are required in all cases to return and deposit with their respective county treasurers; and if he finds it to be a true transcript thereof, he shall add to it a certificate showing that he has examined and compared the account with the assessment roll, and found the same to be correct; and after crediting the collector with the amount, shall, before the first day of April next ensuing, transmit the account and the collector's affidavit, to the comptroller, with a certificate that he has compared the account with the entries of the same taxes, in the original assessment roll, and has found the same to be a true transcript of such roll.

Tax on
land vacant
by removal
of occu-
pant.

§ 5. If the taxes on any farm or lot of land, assessed to a resident, shall be returned as unpaid, in consequence of such premises becoming vacant by the removal of the occupant, before the collection of the tax imposed thereon, or in default of goods and chattels of the occupant to satisfy such tax, the supervisor of the town in which such land was assessed, shall add a description thereof to the assessment roll of the next year in the part thereof appropriated to taxes on lands of non-residents, and shall charge the same with the uncollected tax of the preceding year; and the same proceedings shall be had thereon, in all respects, as if it was the land of a non-resident, and as if such tax had been laid in the year in which the description is so added.

Non-resi-
dent lands.

§ 6. Whenever the taxes upon the lands of a resident shall be returned for non-payment, as provided in the last preceding section, to the county treasurer, the collector shall annex to such return an affidavit, stating the reasons why such tax was not collected. Nothing in said last preceding section shall be so construed as to conflict with sections one, two and three of chapter four hundred and sixty-one, laws of eighteen hundred and thirty-six, but they shall be concurrent remedies.

Tax may
be paid to
treasurer.

§ 7. Any person whose lands are assessed, may pay the tax assessed thereon to the treasurer of the county in which such lands were assessed, provided such payment be made to the county treasurer before he shall have made his annual return of the arrears of taxes to the comptroller. The county treasurer shall give a receipt for such payment, and shall also make return thereof to the comptroller.

Apportion-
ment of
state tax.

§ 8. The comptroller shall, from the annual returns made to him of the valuations of real and personal estates in the several counties in this state, charge the several county treasurers with the amount of the state taxes, if any, to be raised in their respective counties, crediting them with their own fees; but no fees shall be allowed by the comptroller to the county treasurers, in adjusting the accounts of the county treasurers, for such portion of the state tax as is paid by

credit given for taxes on non-resident property returned to him.

§ 9. Whenever any account of arrears of taxes on the lands of non-residents shall be transmitted by a county treasurer to the comptroller, he shall examine them, and reject all taxes that shall be found to be charged on lands imperfectly described, and credit such county treasurer, in a book to be kept by the comptroller for that purpose, with the amount of all arrears of taxes which shall be admitted by him.

Lands im-
perfectly
described.

§ 10. If the arrears so credited to the treasurer of any county shall exceed the state tax, if any, in said county, the comptroller shall cause the surplus, after deducting therefrom any balance which may be due from such county on account of taxes previously rejected by the comptroller, to be paid out of the treasury of this state, to the treasurer of the county; and the whole amount of taxes so to be assumed by the state, shall be collected for its benefit, in the manner hereinafter provided. If there be no state tax, the whole amount of such arrears, after deducting such balance as above mentioned, shall be paid to the county treasurer.

Arrears
how paid.

§ 11. The comptroller shall state the accounts of the several county treasurers, on the first day of May in every year; and whenever any part of a state tax shall appear to be unpaid by any county treasurer, the comptroller shall transmit by mail to such county treasurer a copy of his account, requiring him to pay the balance within thirty days.

Accounts
with coun-
ty treas-
urer.

§ 12. If any county treasurer shall refuse or neglect to pay such balance within such time, the comptroller shall forthwith, (unless he shall be satisfied by due proof that such treasurer has not received such balance, and has taken all proper steps to collect the same,) deliver a copy of such county treasurer's account to the attorney general, who shall prosecute forthwith; and the state shall be entitled to recover the balance due, with interest thereon, from the first day of May, in the year when the same ought to have been paid.

Suits for
neglect to
pay.

§ 13. The comptroller may also, in his discretion, direct the board of supervisors of the proper county, to institute one or more suits on the bond of such treasurer and his sureties.

Bond to be
sued.

§ 14. If the defendants in any suits to be brought under either of the last two preceding sections, shall at any time before judgment is obtained therein, pay the balance due the state, with interest, into the treasury, or account for the same to the comptroller, it shall be his duty, on payment of costs of suit, to direct such suits to be discontinued.

Suits when
to be dis-
continued.

§ 15. It shall be the duty of the comptroller, on or before the first Tuesday in October, in every year, to furnish the boards of supervisors of the several counties, from which returns of arrears of taxes shall have been received at his office, with statements of the sums paid out of the state trea-

Statement
of arrears

PART I.

Rejected taxes.

surey, to their respective county treasurers, on account of such arrears during the year preceding.

§ 16. The comptroller shall, on or before the first day of September in each year, transmit by mail or otherwise, to each county treasurer, a transcript of the taxes of the preceding year, assessed in any town of such county, which shall have been rejected by him, for any cause whatever, stating therein the cause of such rejection.

Taxes on lands imperfectly described.

§ 17. Whenever the comptroller, after having transmitted such annual transcript, shall discover that any taxes credited to a county in the books of his office have been assessed on lands so imperfectly described, that the same cannot, in his opinion, be located with certainty, he shall charge such taxes to the treasurer of the county in which such lands shall be, with the interest thereon, from the first day of March, in the year following that in which the taxes were laid, to the first day of February next after the discovery of such imperfect description.

Transcript to be delivered to supervisors.

§ 18. The comptroller shall also transmit, by mail, a transcript of the returns of such taxes, with the addition of such interest, to the proper county treasurer, who shall deliver the same to the supervisor of the town upon which such taxes are to be assessed, by whom it shall be delivered to the board of supervisors, at their next meeting. If the town upon which such taxes were originally assessed, shall have been divided since such assessment, the county treasurer shall deliver such transcript to the board of supervisors at their next meeting.

Description of land to be made.

§ 19. Whenever the comptroller shall have rejected any tax, in the first instance, or have charged the same to a county, to which it shall have been credited, on account of any inaccurate or imperfect description of the lands on which such tax was laid, the supervisor of the town in which such lands are situate, shall, if in his power, add to the next assessment roll of such town an accurate description of such lands; and if necessary, may cause the survey of such lands at the expense of the town; and the board of supervisors shall charge them with the taxes and interest in arrears, stating the tax of each year separately, and shall direct the collection thereof; and such taxes and interest shall, for all the purposes of this act, be considered as the taxes of the year in which the descriptions shall be perfected.

If not made, tax assessed upon town.

§ 20. If an accurate description of such lands shall not have been added by such supervisor to the assessment roll of his town, the board of supervisors shall cause such arrears of taxes, and the interest thereon, to be levied on the valuations of the estates, real and personal, of such town, as appearing by such assessment roll, and shall direct the same to be collected with the other taxes of the same year.

How assessed in case of division of town.

§ 21. If the town in which such taxes were originally assessed, shall have been divided since such assessment, then such taxes and interest shall be apportioned by the board

of supervisors among the towns included in the limits of such original towns, in such equitable manner as they may deem proper.

§ 22. Whenever it shall be made to appear to the comptroller that any tax returned as unpaid was, previously to such return, paid to the collector or county treasurer, the comptroller shall cancel such tax on the books of his office; and if the same shall have been also paid into the state treasury, he shall cause it to be repaid out of the treasury, to the person by whom such payment shall have been made.

Tax, when cancelled.

§ 23. Whenever any tax shall be so cancelled by the comptroller, he shall transmit an account thereof to the treasurer of the proper county, who shall cause the same to be laid before the board of supervisors thereof, and the amount of such tax with the interest shall be collected by them of the collector or county treasurer, who made such erroneous returns, and be paid into the treasury of this state.

Account to be transmitted to supervisors.

§ 24. Whenever it shall appear satisfactorily to the comptroller that the amount of any tax has been paid, and afterwards other money has been paid into the treasury of this state, on account of such tax; and in cases where it shall appear that the amount due for any tax has been overpaid, he may draw his warrant on the treasurer for the amount so overpaid, in favor of the person who may have made such payment.

Overpaid taxes.

§ 25. All losses which may not be sustained, and any deficiencies which may exist, by reason of the default of the collector of any town or ward, shall be chargeable on such town or ward. All losses which may be sustained, and any deficiencies which may exist, by the default of the treasurer of any county in discharge of the duties imposed by law, shall be chargeable to such county. And any judgment heretofore obtained, or which shall hereafter be obtained, against such treasurer for any such deficiency on account of the state tax, and where an execution shall have been issued thereon and returned unsatisfied, shall be conclusive as to the fact of such loss or deficiency, and shall thereupon become a charge against said county, and the several boards of supervisors shall add such losses or deficiencies to the next year's taxes of such town or county, and shall proceed to levy the same as other charges against said county or town are levied.

Losses by default.

As amended by Laws of 1866, ch. 528. Post, vol. 6, p. 770.

§ 26. If any tax charged on lands of non-residents, or lands returned as under section five of this act, shall remain unpaid until the first day of August following the year in which they shall have been assessed, they shall thereafter be subject to a yearly interest, at the rate of ten per cent., until the same shall be duly paid or the lands sold, as hereinafter provided.

Interest on unpaid taxes.

§ 27. The comptroller shall, from time to time, give to any person requiring the same, a certificate of the amount of any tax, interest and charges due on any tract, piece or parcel of land; and the state treasurer may receive such tax, interest and charges, and give a receipt therefor upon such certificate, which shall be countersigned by the comptroller, and entered in the books of his office.

Certificate of taxes due.

§ 28. Whenever a sum in gross is assessed upon any tract, piece or lot of land, any person claiming a divided or undivided part thereof, may pay to the treasurer of the state any part of the tax, interest, and charges due thereon, proportionate to the number of acres, claimed by him, on the certificate

Persons may pay tax for their interest in lands.

PART I.

Map of
sub-divi-
sions.Taxes how
paid.Over-
charges.Over-
charges to
be re-
charged to
county.Town to be
liable
therefor.

of the comptroller; and the remaining tax, interest and charges shall be a lien on the residue of the land only.

§ 29. If the tract be subdivided, the person wishing to pay the tax upon a divided part of it, shall deliver to the comptroller a map of the subdivisions if required by him.

§ 30. Any person may pay the tax for any one year, and the interest and charges thereon, on any tract or lot of land, without paying the tax of any other year; and in case any tract or lot of land shall have been returned as containing a greater quantity of land than it shall actually contain, the amount overcharged shall be deducted, or if the tax shall have been paid according to such return, shall be refunded out of the treasury, on satisfactory proof being produced to the comptroller of the quantity actually contained in such tract or lot, at any time before the sale of such lands; but no such overcharge shall be cancelled, nor shall such over-payments be refunded unless application shall be made to the comptroller therefor within six years after the assessment of such overcharge.

§ 31. If the whole amount of the tax, in case of the such overcharge, shall have been paid to the county treasurer, out of the treasury of this state, the comptroller shall charge the amount so refunded, with interest and charges thereon, to the treasurer of the county from which the tax was returned, and shall transmit an account thereof to him.

§ 32. Such county treasurer shall deliver such account to the board of supervisors, at their then next meeting, who shall cause the amount thereof to be added to the proportion of the charges of the county to be raised in the town in which the tax was laid.

TITLE II.

OF SALES FOR UNPAID TAXES, AND THE CONVEYANCE AND REDEMPTION OF LAND SOLD, ETC.

Land when
to be sold.

§ 33. Whenever any tax charged on lands returned to the comptroller, and the interest thereon, shall remain unpaid for two years from the first day of May following the year in which the same was assessed, the comptroller shall proceed to advertise and sell such land in the manner hereinafter provided.

List of
lands, and
notices of
sale.

§ 34. He shall make out a list or statement of the lands charged with such tax and interest, and so liable to be sold; and shall cause so many copies thereof to be printed, as shall be sufficient to furnish each county treasurer with at least five copies, and each town clerk with at least two copies, and shall transmit to each county treasurer such number of said copies as shall be equal to five copies for such county treasurer, and two copies for each town clerk in his county. And the comptroller shall also make and transmit to the county treasurer of each county, a list or statement of all the lands

in such county charged with such tax and interest, who, in addition to publication in the state paper, shall cause the same to be correctly published and printed in each of the papers in his county designated by the board of supervisors for publishing the session laws, for the space of ten weeks prior to the commencement of such sale. If no newspaper shall have been designated to print the laws in any county, such list or statement shall be published in two newspapers of such county to be selected by the county treasurer; and if there shall not be two newspapers published in such county, then in two papers which the county treasurer shall ascertain to be most generally circulated in such county. But no error in the printed description in such newspapers shall vitiate or in any manner affect the validity of such sale; and all expenses of printing such list or statement shall be audited by the comptroller and paid out of the treasury of this state, on receiving one copy of the newspaper containing the same, with an affidavit of the publication of such list or statement according to the provisions of this section, to be made by the printer, publisher, or some person to whom the fact of such publication shall be known.

§ 35. The comptroller may employ agents or messengers to transmit to such of the county treasurers as he may think proper, the copies of such lists of lands liable to be sold for taxes; and the agents or messengers so employed shall require of each county treasurer to whom they shall deliver such copies, an acknowledgment, in writing, of the receipt thereof; which acknowledgments shall be delivered by such agents or messengers to the comptroller, at least eighteen weeks before the commencement of the sale of the lands mentioned in such list.

Lists how transmitted.

§ 36. The reasonable compensation of such agents or messengers shall be fixed by the comptroller, and paid out of the treasury; but the same shall not, in any case, exceed the amount of postage which would have been charged on the copies transmitted by such agents or messengers, if they had been transmitted by mail.

Pay of agents.

§ 37. The expenses incurred by the state in printing and transmitting any list of lands liable to be sold for taxes, and in publishing notices of sale, shall be charged on the lands mentioned in said list, and shall be apportioned among the several tracts or parcels of such land, in such proportions as the comptroller shall deem just.

Expenses how paid.

§ 38. The county treasurers shall retain in their office five of the copies transmitted to them, and shall permit all persons, at all reasonable hours, to examine the same; and shall cause the remaining copies to be delivered to the town clerks.

Copies in treasurer's office.

§ 39. The expenses which may be incurred by the county treasurer, in the transmission of such lists, shall be audited and paid as contingent expenses of the county.

Treasurer's expenses.

§ 40. Every town clerk to whom such copies shall be

Notice by town clerk.

PART I.

delivered, shall give notice at the opening of every town meeting for the election of town officers, that lists of all lands advertised for sale for taxes by the comptroller, are deposited in his office, and that they may be there seen and examined, at all reasonable hours, free of expense.

General notice.

§ 41. After transmitting such lists to the county treasurers, the comptroller shall cause to be published, once in each week, for twelve weeks successively, in all the newspapers in this state, designated by the board of supervisors of the several counties for printing the laws, under the provisions of the act entitled "An act for the publication of the session laws in two newspapers in each county in this state," passed May fourteenth, one thousand eight hundred and forty-five, a general notice, stating that a list of all the lands liable to be sold for taxes has been forwarded to each of the county treasurers and town clerks in this state, and that so much of the said lands as may be necessary to discharge the taxes, interest, and charges which may be due thereon at the time of sale, will, on a day to be mentioned in such notice, and the succeeding days, be sold at public auction at the capitol in the city of Albany.

Affidavit of publication.

§ 42. Every printer to whom such notice shall be transmitted for publication, shall, within twenty days after the last publication thereof, transmit to the comptroller an affidavit of due publication, made by some person to whom the fact of publication shall be known.

Maps of lands sold.

§ 43. Whenever the comptroller, preparatory to a sale of lands for taxes, shall deem it necessary, in order to test the correctness of the descriptions thereof, he may apply to the board of supervisors of any county, for maps of any tracts of land charged with taxes, and returned from such county. And the board of supervisors to whom such application shall be made, shall furnish such maps, at the expense of the county, if they can be procured, and if not, they shall then furnish such descriptions of the lands as they can obtain, with a statement of the quantity in each subdivision, if the same be divided.

Sale.

§ 44. On the day mentioned in the notices, the comptroller shall commence the sale of such lands, and shall continue the same from day to day, until so much of each parcel so assessed, shall be sold, as will be sufficient to pay the taxes, interest and charges thereon. See Post, p. 379.

Bids how paid.

§ 45. The purchasers at such sale shall pay the amount of their respective bids to the state treasurer, within forty-eight hours after the last day of the sale; and if any such purchaser shall refuse or neglect to pay the same within that time, the comptroller may state an account against him, and deliver it to the attorney general, who shall be entitled to recover the same from the purchaser, by an action in the name of the people of this state; and for that purpose he shall forthwith cause a suit to be instituted therefor; or the comptroller may,

in his discretion, re-sell the said lands upon which such bids so remaining unpaid were made as hereinafter provided.

§ 46. After such payment shall have been made the comptroller shall give to the purchaser of any such lands, a certificate in writing, describing the lands purchased, the sum paid, and the time when the purchaser will be entitled to a deed.

Certificate
of purchase.

§ 47. At any time after the expiration of three months from the conclusion of any sale of lands for taxes, pursuant to this act, when any purchaser at such sale shall not have paid the amount of his bid, or the same shall not have been collected from him, it shall be lawful for the comptroller to cancel such sale, by which all the rights of the said purchaser under such bid shall be extinguished.

Cancellation
of sale.

§ 48. When the comptroller shall have cancelled any sale in the manner above provided, he may issue a certificate of such sale to any other person who will pay the amount for such certificate which would be payable by the original purchaser, in case the said sale had not been cancelled, or if such certificate cannot be sold, he may transfer the same to the people of the state.

New certificate.

§ 49. The change of purchaser shall be noted in the sales book, and the time when made; and the certificate issued to such new purchaser, shall confer the same right to him and his legal representatives, as he would have acquired had he been the successful bidder at the sale.

Change of
purchaser.

§ 50. The owner or occupant of any land sold for taxes, or any other person, may redeem the same, as hereinafter provided, at any time within two years after the last day of such sale, by paying to the state treasurer, on the certificate of the comptroller, for the use of the purchaser, his heirs or assigns, the sum mentioned in his certificate, with interest at the rate of ten per cent per annum, from the date of such certificate.

Time for
redemption

§ 51. Any person claiming an undivided part of any tract, lot or piece of land sold for taxes, may redeem the same on paying as aforesaid, such proportion of the purchase money and interest as he shall claim of the lands sold.

Undivided
parts.

§ 52. Any person claiming an undivided share in any tract or lot of land out of which an undivided part shall have been sold for taxes, may redeem his undivided share by paying as aforesaid, such proportion of the purchase money and interest as he shall claim of the lands sold.

Undivided
share of
undivided
part.

§ 53. Any person claiming a specific part of any tract, lot or piece of land sold for taxes, may redeem his specific part by paying as aforesaid, such proportion of the purchase money and interest as his quantity of acres shall bear to the whole quantity of acres sold.

Specific
part.

§ 54. Any person claiming a specific part of any tract or lot of land out of which an undivided part shall have been sold for taxes, charged on the whole tract or lot, may redeem

Specific
part of
undivided
part.

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his specific part by paying as aforesaid, such proportion of the purchase money and interest as his quantity of acres shall bear to the whole quantity taxed.

Proportional parts how paid.

§ 55. Any person claiming a specific part of any tract or lot of land out of which a specific part belonging to some other person, shall have been sold for taxes charged on the whole tract or lot, may exonerate himself from all liability to contribute to the owner of the part sold, by paying as aforesaid, at any time before the expiration of the time allowed for the redemption, such proportion of the purchase money and interest as his quantity of acres shall bear to the whole quantity taxed; and such payment shall operate as redemption of a proportionate part, according to the amount paid, of the land sold.

Partial redemption.

§ 56. In every case of a partial redemption, pursuant to either of the last five sections, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption; and the comptroller shall convey accordingly.

Taxes on land conjointly sold.

§ 57. Whenever the lands of any one person shall be sold for taxes assessed conjointly on the lands of such person and the lands of another person, and such other person shall not pay his due proportion under section fifty-two of this act, the person whose lands shall be sold may redeem the same on paying, as aforesaid, the purchase money and interest; and he shall be entitled to recover from such other person whose lands were assessed with his, a just proportion of the redemption moneys so paid, with lawful interest from the time of such redemption; but no suit shall be brought for the recovery of such proportion, until after the expiration of the time allowed for redemption.

Suits for proportion of value.

§ 58. If such owner shall not redeem the land sold, and the same shall be conveyed by the comptroller, such owner may recover from such other person the same proportion of the value of the land sold and conveyed, that he ought to have paid of the tax, interest and charges for which the land shall have been sold. In all actions under this or the last preceding section, the certificate of the state treasurer, countersigned by the comptroller, duly stating the facts in relation to such redemption or sale and conveyance, shall be presumptive evidence of such payment, and of all facts therein stated.

Lien of judgment.

§ 59. Every judgment obtained under either of the last two sections, shall have priority, as against the lands of the defendant therein, on which the tax was assessed, and for which such proportional part ought to have been paid, to all mortgages executed, and all judgments recovered, since the twenty-third day of April, eighteen hundred and twenty-three.

Docket how made.

§ 60. But such judgment shall not be entitled to such priority, unless at the time of docketing the same the plaintiff cause an entry to be made by the clerk in the docket thereof, specifying that such judgment has priority, as a lien on certain lands, over mortgages and other judgments pursuant to

the laws regulating the collection of taxes, which entry shall be a part of such docket.

§ 61. The comptroller shall, at least six months before the expiration of the two years allowed for redemption, prepare a notice for each county, in which there shall then appear to be any lands sold for taxes and unredeemed, specifying particularly every parcel remaining unredeemed, and the amount necessary to redeem the same, calculated to the last day on which such redemption can be made, and stating that unless such lands are redeemed by a certain day, they will be conveyed to the purchaser; and he shall cause such notice to be published once in each week, for at least six weeks successively, in the newspapers designated by the boards of supervisors of such counties respectively to publish the session laws; such publication to be in the body of the newspaper, and not in a supplement; and the said six weeks' publication to be completed at least eighteen weeks before the expiration of the two years allowed for the redemption. The boards of supervisors of the respective counties shall audit and pay the expenses of such publication.

Notice of
unredeem-
ed lands.

§ 62. If no newspapers shall have been designated to print the laws in any county in which such lands are situated, such notices, and lists or statements, shall be transmitted and published as above provided, in two newspapers of such county, to be selected by the comptroller; and if there shall not be two newspapers published in such county, then in the two newspapers which the comptroller shall believe to be most generally circulated in such county.

How pub-
lished.

§ 63. If no person shall redeem such lands within such two years, the comptroller shall, at the expiration thereof, execute to the purchaser, his heirs or assign, in the name of the people of this state, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple; subject, however, to all the claims which the people of this state may have thereon for taxes, or other liens or incumbrances.

Deeds.

§ 64. Whenever any certificate, given by the comptroller for lands sold for taxes, shall be lost, or wrongfully withheld by any person from the owner thereof, the comptroller may receive evidence of such loss or wrongful detention, and on satisfactory proof of the fact, may execute and deliver a deed to such person, as may appear to him to be the rightful owner of the land described in the certificate.

Lost certifi-
cate.

§ 65. Such conveyance shall be executed by the comptroller under his hand and seal, and the execution thereof shall be witnessed by the deputy comptroller, surveyor general or treasurer, and all conveyances hereafter executed by the comptroller, of lands sold by him for taxes, shall be presumptive evidence that the sale, and all proceedings prior thereto, from and including the assessment of the land, and all notices required by law to be given previous to the expiration of the

Conveyan-
ces how
executed.

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two years allowed to redeem, were regular, according to the provisions of this act, and all laws directing or requiring the same, or in any manner relating thereto. But when the person or persons claiming title under such conveyance or the grantees or assignees of such persons shall be in possession of the land described therein, either by himself or themselves, or his or their grantees, assignees, agents, tenants or servants, then such conveyance shall be presumptive evidence of the facts above stated, whatever may be the date of such conveyance.

So amended by Laws of 1860, ch. 209; 23 N. Y., 283.

Bids for
state.

§ 66. It shall be the duty of the comptroller to bid in for the state, at any sale of land for taxes, every lot of land by him put up for which no person shall offer to bid; and certificates of such sale shall be made by the comptroller, which shall describe the lands purchased, and specify the time when the people of this state will be entitled to a deed. Such purchases shall be subject to the same right of redemption as purchases by individuals; and if the lands sold shall not be redeemed, the comptroller shall execute a release therefor, to the people of this state, or their assignees, which shall have the same effect, and become absolute in the same time, and on the performance of the like conditions, as in the case of sales and conveyances to individuals.

Sale of
lands bid in
by comp-
troller.

§ 67. At any time before the expiration of the two years allowed to redeem, the comptroller may sell and assign all the interest of the people of this state, in any or all such certificates as mentioned in the last preceding section, either at public or private sale, as to him may seem most for the interest of the people to any person who shall forthwith pay into the state treasury the amount of the purchase money charged him by the comptroller; and the assignee of such certificate, if the lands therein described shall not be redeemed, shall be entitled to a deed therefor, which shall have the same effect, and become absolute in the same time, and on the performance of the like conditions, as in the case of conveyances under the last preceding section.

Notice to
occupants.

§ 68. Whenever any lot or separate tract of land sold for taxes by the comptroller, and conveyed as hereinbefore provided, shall at the time of the expiration of the two years given for the redemption thereof, or any part thereof, be in the actual occupancy of any person, the grantee to whom the same shall have been conveyed, or the person claiming under him, shall serve a written notice on the person occupying such land, within two years from the expiration of said time to redeem; stating in substance, the sale and conveyance, the person to whom made, and the amount of the consideration money mentioned in the conveyance, with the addition of thirty-seven and a half per cent on such amount, and further addition of the sum paid for the deed; and stating also, that unless such consideration money and the said thirty-seven

and a half per cent, together with the sum paid for the deed, shall be paid into the treasury for the benefit of such grantee, within six months after the time of filing in the comptroller's office of the evidence of the service of the said notice, that the said conveyance will become absolute, and the occupant and all others interested in the land, be forever barred from all right or title thereto. And no conveyance made in pursuance of this section shall be recorded, until the expiration of such notice, and the evidence of the service of such notice shall be recorded with such conveyance.

§ 69. Such notice may be served personally, or by leaving the same at the dwelling house of the occupant, with any person of suitable age and discretion, belonging to his family.

Notice
how served.

§ 70. The occupant, or any other person, may, at any time within the six months mentioned in such notice, redeem the said land, by paying into the treasury, such consideration money, with the addition of thirty-seven and a half per cent thereon, and the amount that shall have been paid for the deed; and every such redemption shall be as effectual as if made before the expiration of the two years allowed to redeem the land sold.

Redemp-
tion.

§ 71. Upon such redemption, as provided for in the last preceding section, the comptroller shall give to the person redeeming, a certificate under his hand and seal, stating the payment, the year in which the sale was made, and showing particularly what land such payment is intended to redeem; and such certificate shall be evidence of such redemption, and may be recorded by the clerk of the county, in the book for the recording of deeds.

Certificate.

§ 72. In every case of actual occupancy, the grantee, or the person claiming under him, in order to complete his title to the land conveyed, shall within one month after the service of such notice, file with the comptroller a copy of the notice served, together with the affidavit of some person who shall be certified as credible, by the officer before whom such affidavit shall be taken, that such notice as is above required, was duly served, specifying the mode of service.

Affidavit of
service of
notice.

§ 73. If the comptroller shall be satisfied by such copy and affidavit that the proper notice has been duly served, and if the moneys required to be paid for the redemption of such land shall not have been paid, as hereinbefore provided, he shall, under his hand and seal, certify such facts, and the conveyance before made shall thereupon become absolute; and the occupant, and all others interested in said lands shall be forever barred of all right and title thereto.

Comptrol-
ler's certifi-
cate of
facts.

§ 74. The occupant of any such lot, or any other person may at any time before the service of said notice by the purchaser, or the person claiming under him, redeem any lands so occupied, by filing in the office of the comptroller satisfactory evidence of the occupancy required, and by paying to him the consideration money for which the lands to be re-

Occupant
may re-
deem.

PART I

deemed were sold, and thirty-seven and a half per cent thereon together with the sum paid for the deed if any.

Treasurer's receipt.

§ 75. Upon any redemption being made, as permitted in the last preceding section, the receipt of the treasurer to whom the payment is made, accompanied by the comptroller's certificate, as required by section sixty-eight of this act, and further stating, that such redemption was made without notice, shall be presumptive evidence that such land has been correctly redeemed.

Mortgagee's lien not affected.

§ 76. No sale of real estate hereafter made for the non-payment of any tax or assessment, shall destroy, or in any manner affect the lien of any mortgage thereon, duly recorded or registered at the time of such sale, except as hereinafter provided.

Notice to mortgagee.

§ 77. It shall be the duty of the purchaser at such sale, to give to the mortgagee a written notice of such sale, requiring him to pay the amount of the purchase money, with interest, at the rate allowed by law thereon, within six months after the giving of such notice.

Mortgagee's lien

§ 78. If such payment shall be made, the sale shall be of no further effect, and the mortgagee shall have a lien on the premises for the amount paid, with the interest which may thereafter accrue thereon, at the rate of seven per cent per annum, in like manner as if the same had been included in his mortgage.

Failure to pay.

§ 79. In case the mortgagee shall fail to make such payment within the time so limited, he shall not be entitled to the benefit of section seventy-six of this act.

Mortgage defined.

§ 80. The term "mortgagee," as used in this act, shall be construed to include assignees whose assignment shall be duly recorded, and personal representatives; and the term "purchaser," shall be construed to include assignees, and real or personal representatives, as the case may be.

Notices how served.

§ 81. The notice required by section seventy-seven of this act, may be given either personally or in the manner required by law, in respect to notices of non-acceptance or non-payment of notes or bills of exchange, and a notarial certificate thereof shall be presumptive evidence of the fact; such certificates may be recorded in the county in which the mortgage was recorded, in the same manner and with the same effect as is by law prescribed in respect to deeds or other evidences of title of real estate.

Section 82 repealed by Laws of 1862, ch. 235. Post, p. 379.

Invalid sale.

§ 83. Whenever the comptroller shall discover, prior to the conveyance of any lands sold for taxes, that the sale was for any cause whatever invalid or ineffectual to give title to the lands solds, the lands so improperly sold shall not be conveyed, but the comptroller shall cancel the sale, and forthwith cause the purchase money and interest thereon to be refunded out of the state treasury to the purchaser, his representatives or assigns.

§ 84. If the error originated with the county or town officers the sum so paid shall be a charge against the county from which the tax was returned; and the board of supervisors shall cause the same to be assessed, levied, collected, and paid to the treasurer of this state.

CHAP. XIII.
Error how charged.

§ 85. If the discovery that the sale was invalid shall not be made until after the conveyance shall have been executed for the lands sold, it shall be the duty of the comptroller, on receiving evidence thereof, to cancel the sale, to refund out of the state treasury to the purchaser, his representatives or assigns, the purchase money, and interest thereon, and to recharge the county from which the tax was returned, with the amount of purchase money, and interest at the rate of seven per cent from the time of the sale, and such county shall cause the same to be levied and paid, as provided in the last preceding section.

Cancelling sale and refunding money.

§ 86. The expenses attending the sales for taxes under this act, including a due proportion of the expenses of publishing lists and notices and transmitting copies thereof, and not hereinbefore provided for, shall be a charge on the lands out of which the sales are made; and an equal part of such expense shall be added to the taxes, interest, and other charges, on each parcel of land out of which a sale may be made.

Expenses of sale.

§ 87. The moneys received upon every such sale for taxes and interest, and also for the expenses of sale, shall be paid into the state treasury, and the accounts of persons entitled to any portion of the moneys so received for such expenses, shall be audited by the comptroller, and paid out of the state treasury.

Moneys to be paid into treasury.

§ 88. If any of the officers concerned in the execution of this act, shall willfully neglect or refuse to perform the duties assigned them, such officer shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine or imprisonment, or both, in the discretion of the court.

Neglect of duty.

[Sections 89 and 90 temporary.]

§ 91. The provisions of this act (except sections two, three, eight, twelve, thirteen and fourteen,) shall not in any manner affect or apply to the city and county of New-York, the city of Albany, the city of Brooklyn, in the county of Kings, or the village of Williamsburg, in said county of Kings; and in said sections the words "county treasurer" shall be construed to include the chamberlain of the city and county of New-York.

Exceptions

§ 92. The act entitled "An act in relation to the collection of taxes on lands of non-residents, and to provide for the sale of such lands in the counties where they are assessed," passed April ten, one thousand eight hundred and fifty, and the act entitled "An act in relation to the publication of notices previous to the conveyance of lands sold for taxes," passed April six, one thousand eight hundred and fifty, and all laws inconsistent with this act, are repealed: but the repeal or anything

Repeal.

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contained (except section thirty, in relation to the cancellation of overcharged taxes, and sections eighty-nine and ninety, in relation to the taxes of the years one thousand eight hundred and fifty-two and one thousand eight hundred and fifty-three) shall not in any manner affect any tax levied or assessed in either of the years one thousand eight hundred and forty-nine, one thousand eight hundred and fifty and one thousand eight hundred and fifty-one, nor any proceedings for the collection thereof, by sale of the land taxed or otherwise; nor the rights of any person which have accrued or may accrue by reason of any such sale or proceeding, nor the powers of county treasurers in relation to the collection of the taxes of eighteen hundred and fifty-two and eighteen hundred and fifty-three, except as provided by sections eighty-nine and ninety, of this act above mentioned; and all taxes heretofore levied or assessed, which have been or shall be hereafter rejected by the comptroller, and shall be hereafter returned to him, after having been duly relaid or reassessed, with corrected descriptions, shall, for the purpose of this act, be deemed to have been levied and assessed in, and to be the taxes of the year in which the tax was so relaid and the description perfected.

CHAP. 7.

AN ACT authorizing the extension of the time for collection of Taxes in the several towns and cities of this State.

PASSED January 31, 1857, three-fifths being present.

The People of the State of New York represented in Senate and Assembly do enact as follows:

Collector of taxes to pay over all moneys.
To renew bond.

§ 1. If any collector of taxes in any of the towns or cities of this state, shall, within the time which is now, or shall hereafter be provided by law, pay over all the moneys collected by him, and shall within ten days thereafter, renew his bond with sureties, to the satisfaction, in towns, of the supervisor, or in case of his absence or disability, of the town clerk; and in any city, in the manner in which collectors' bonds are now approved, in a penalty not less than double the amount remaining uncollected, by virtue of his warrant, such approval to be expressed in writing upon or attached to said bond, and which bond shall be filed and have the effect of a collector's bond as provided by law, and shall also within the time aforesaid, deliver to the county treasurer of his county, if a collector of the taxes in any town, and to the city treasurer of his city, if a collector of the taxes in any city, a copy of such bond and approval, duly certified or authenticated by the officer or board taking and approving the same, then the time for collecting the taxes and making the returns thereof may be extended to a period not later than the first Monday of March, then next, which period shall in the towns be fixed and limited by the supervisor of such town, or in case of his absence or inability, by the town clerk, and in the cities by the common council.

Time to be extended.

Not to affect certain cities.

§ 2. This act shall not extend to the cities of New York, Albany, Brooklyn, Troy, Buffalo and Rochester, or any other city of this State wherein the taxes are collected under a special law.

§ 3. This act shall take effect immediately.

CHAP. 456.

AN ACT in relation to the Assessment of Taxes on Incorporated Companies.

PASSED April 15, 1857; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 3. The capital stock of every company liable to taxation, except such part of it as shall have been excepted in the assessment roll, or as shall have been exempted by law, together with its surplus profits or reserved funds, exceeding ten per cent of its capital, after deducting the assessed value of its real estate, and all shares of stock in other corporations actually owned by such company, which are taxable upon their capital stock under the laws of this state, shall be assessed at its actual value, and taxed in the same manner as the other personal and real estate of the county.

23 N. Y., 194; 21 N. Y., 455; 32 B., 511; 40 B., 335.

§ 4. The deposits in any bank for savings which are due to depositors, and the accumulations in any life insurance company organized under the laws of this state, so far as the said accumulations are held for the exclusive benefit of the assured, shall not be liable to taxation, other than the real estate and stocks which may be owned by such bank or company, and which are now liable to taxation under the laws of the state.

[Section 5 amends Revised Statutes.]

§ 6. The supreme court, on the filing of such petition, or on the coming in of the answer thereto, may order such part of the property of such company or bank to be sequestrated, as shall be deemed necessary for the purpose of satisfying the taxes in arrear, with the costs of prosecution; and the court may also, at its discretion, enjoin such company or bank, and the officers thereof, from any further proceedings under their charter or act of incorporation, and may order and direct such other proceedings as shall be deemed necessary to compel the payment of such taxes and costs.

47 B., 109.

CHAP. 536.

AN ACT to amend chapter thirteen, part first of the Revised States, entitled "Of the assessment and collection of taxes," and chapter 176 of Laws of 1851.

PASSED April 15, 1857; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

[Section 1 repealed by Laws of 1858, ch. 110.]

§ 2. Section seventeen of said title shall read as follows:

§ 17. The assessors shall complete the assessment rolls on

Assessment rolls.

PART I.

or before the first day of August, in every year, and shall make out one fair copy thereof, to be left with one of their number. They shall forthwith cause notices thereof to be left with one of their number; they shall forthwith cause notices thereof to be put up at three or more public places in their town or ward.

As amended see Laws of 1858, ch. 110. Post, p. 375. This act amends § 17 of the R. S. (ante, vol. 1, p. 365), but it probably means § 19, which, in some of the later editions of the Rev. Stat., is without authority numbered 17.

Meaning of person.

§ 3. Where the term "person" or "persons" is used in sections eighteen and twenty of said title two, and in sections five, six and seven of chapter one hundred and seventy-six of the laws of eighteen hundred and fifty-one, such term shall be construed to include corporations as well as individuals.

Amending section 18.

§ 4. Section eighteen of said title is amended by adding after the words "hear and determine," the words "in accordance with the rule prescribed by section fifteen of said title two."

§ 5. Section six of chapter one hundred and seventy-six of the laws of eighteen hundred and fifty-one, is hereby amended so as to read as follows:

Reduction of valuation

§ 6. Whenever any person on his own behalf, or on behalf of those whom he may represent, shall apply to the assessors of any town or ward to reduce the value of his real and personal estate, as set down in the assessment roll, it shall be the duty of such assessors to examine such person under oath touching the value of his or their said real or personal estate; and after such examination, and such other supplementary evidence, under oath, as shall be presented by the party or person aggrieved, they shall fix the value thereof at such sum as they may deem just, under the rule prescribed by section ** of this title; but if such person shall refuse to answer any question as to the value of his real or personal estate, or the amount thereof, or present sufficient supplementary evidence, under oath, to justify a reduction, the said assessors shall not reduce the value of such real or personal estate. The examination so taken shall be written, and shall be subscribed by the person examined, and shall be filed in the office of the town clerk of the town or city in which such assessment shall be made; and any person who shall willfully swear false on such examination before the assessors, shall be deemed guilty of wilful and corrupt perjury. It shall also be the duty of the assessors, whenever the valuation fixed to* them, after such examination, shall exceed that sworn to by the aggrieved party or person, to endorse on the written examination, the words "Disagreed to by the undersigned assessors, under the rule prescribed for making assessments, by section

** Probable omission; so in original.

* So in the original.

fifteen, article two, title two, chapter thirteen, part one of the Revised Statutes, and in view of the obligations imposed by the deposition and oath, subscribed and made on the completion of the assessment roll, to which this disagreement refers." It shall be the duty of the assessors on the same occasion, to furnish the aggrieved party or person a duplicate copy of the before mentioned written examination, together with the endorsement of disagreement aforesaid, duly signed.

Section 6 repealed by Laws of 1858, ch. 110; 47 B., 320.

CHAP. 585.

AN ACT to provide for the collection of taxes in certain cases.

PASSED April 15, 1857; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In case the collector of any town in this state shall neglect or refuse to execute his bond as required by law, or the supervisor of the town shall refuse or neglect to appear and file such bond within the time prescribed by law, and if no new collector shall have been appointed within ten days after the time for filing such bond as required by law has expired, the board of supervisors of such county are authorized and empowered to deliver the corrected assessment roll, or a copy thereof, with a warrant of said board of supervisors, or a majority of them annexed, to the sheriff of the county, who shall proceed in the collection of said taxes in like manner as collectors are now authorized by law to do, and with the like powers and subject to the same duties and obligations; such warrant shall require all payments therein specified to be made by such sheriff within sixty days after its receipt by him; and the expenses of such collection, if any, over and above the fees lawfully chargeable by the collector, to be audited by the board of supervisors, shall be a charge on the town.

Duty of supervisors

CHAP. 110.

AN ACT to repeal parts of an act to amend chapter thirteen, part first of the Revised Statutes, entitled of the assessment and collection of taxes, and chapter one hundred and seventy-six of the Laws of eighteen hundred and fifty-one, passed April fifteenth, eighteen hundred and fifty-seven.

PASSED April 7th, 1858.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Sections one and six of chapter five hundred and thirty-six of the laws of eighteen hundred and fifty-seven, are re-

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pealed, and that part of section two of the same chapter, which requires special notice to be given in case an assessment roll includes property belonging to a railroad corporation, is also repealed. *Ante*, p. 874.

CHAP. 357.

AN ACT amending chapter three hundred and twenty-seven of the Laws of eighteen hundred and forty-six, so as to authorize the board of Supervisors to review and correct assessments in certain cases where it can not now be done by the Assessors.

PASSED April 19th, 1858.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. The assessor shall in all cases of assessments under chapter three hundred and twenty-seven of the laws of eighteen hundred and forty-six, specify in the assessment rolls each rent so assessed, and the value fixed upon articles, other than money, in which such rents are payable, and whenever assessments are made against any person in any town or ward in which he does not reside, the board of supervisors of the county to which such assessments are returned, shall have in all respects as full power and authority, and it shall be their duty, to correct such assessments as to the valuation of the rents, and as to the gross amount for which such person shall be assessed, as the assessors have as to a resident of the town; and such board of supervisors may reduce the amount of such assessments in the respective towns or wards of the county, in proportion or otherwise, as the nature of the corrections require, to make such assessments just. *Ante*, p. 348.

CHAP. 312.

AN ACT to equalize the State tax among the several counties in this State.

PASSED April 14, 1859; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. The commissioners of the land office and three state assessors whose appointment is herein provided for, shall constitute a board of equalization, whose duty it shall be to equalize the state tax among the several counties of the state and to fix the amount of assessment of real and personal estate on which the state tax shall be levied in each county.

23 N. Y., 240.

Board of
equaliza-
tion.

§ 2. There shall be nominated by the governor and appointed by and with the advice and consent of the Senate, three officers by the name of state assessors, who shall hold their offices for three years, and until their successors shall be duly qualified, except as hereinafter provided.

CHAP. XIII.
Governor to
appoint
assessors.

§ 3. The term of office of one of said state assessors shall expire on the first day of April, in each year, commencing with the first day of April, eighteen hundred and sixty; and at the first meeting of the state assessors to be appointed the present year, they shall determine by lot the length of their respective terms, whether one, two or three years.

Term of
office.

§ 4. The said assessors shall have power to swear witnesses and examine all persons and papers which they shall deem necessary to the proper discharge of their duties, and the state, town, county and city officers shall furnish them with all information belonging to or connected with their respective offices, and copies of all papers in their various offices which the assessors may require of them in the proper discharge of their duties.

Powers of
state as-
sessors.

§ 5. The said assessors shall meet within ten days after their appointment, in the city of Albany, and adopt their plan of action.

Meeting of.

§ 6. Any two of said assessors shall have authority to transact all business appertaining to their office, but all three must be duly notified of each and every meeting for the transaction of business. In case of the death, resignation, refusal or inability to serve, of any one or more of said assessors, while the senate is not in session, the governor is hereby authorized to fill such vacancies, and the person so appointed shall hold the office the balance of the term; provided his appointment shall be confirmed by the senate, on the nomination of the governor, at the next session thereof.

Two to
transact
business.

§ 7. The state assessors shall visit, officially, every county in the state, at least once in two years, and they shall prepare a written digest of such facts as they may deem most important for aiding the board of equalization in the discharge of its duties. They shall commence a course of examination and visitation of the counties in the month of May next, or before, and diligently* prosecute the same.

State as-
sessors to
visit, &c.

§ 8. The board of equalization shall meet in the city of Albany on the first Tuesday in September in each year, for the purpose of examining and revising the valuations of the real and personal estate of the several counties as returned to the office of the comptroller, and fixing the aggregate amount of assessment for each county on which the comptroller shall compute the state tax. The board of equalization may increase or diminish the aggregate valuations of real estate in any county by adding or deducting such sum as in their opinion may be just and necessary to produce a just relation between all the valuations of real estate in the state; but

Meetings of
board of
equaliza-
tion.

* So in original.

PART I.Statement
to be made.

they shall in no instance reduce the aggregate valuations of all the counties below the aggregate valuations thereof as returned by the boards of supervisors to the comptroller's office; but the aggregate of the assessed valuation of the whole state shall, not for the year eighteen hundred and fifty-nine, be increased or diminished by the board of equalization. A statement of the amount of assessment for each county, as fixed by the board of equalization, shall be certified by said board and deposited in the office of the comptroller, as soon as completed, and before the tenth day of October in each year. The comptroller shall immediately ascertain from this assessment, the proportion of state tax each county shall pay, and send a statement of the amount by mail, to the county clerk, and the chairman and clerk of the board of supervisors, of each county.

If the name or residence of the chairman or clerk of the board of supervisors shall be unknown to the comptroller, he may enclose such statement in an envelope addressed to him by his name of office, and directed to the county town of the county. The county clerk shall file the statement received by him in his office, and immediately send a copy thereof to the chairman of the board of supervisors of the county.

State tax

§ 9. The amount of state tax which each county is to pay, as so fixed and certified by the comptroller as aforesaid, shall be raised and collected by the annual collection of taxes, in the several counties, in the manner now prescribed by law.

Compensa-
tion of state
assessors.

§ 10. Each state assessor shall receive five dollars for every day's service necessarily spent in the performance of his duties, and shall be allowed, in addition thereto, all the traveling expenses, board excepted, necessarily incurred by him, not exceeding three hundred dollars per annum, the bill of such expenses shall be rendered to the comptroller in items, and verified by the affidavit of such assessor; no allowance shall be made to such assessors for railroad fare, unless such affidavit shall specify that such fare has been actually and in good faith expended.

Books,
where de-
posited.
Oath of
office.

§ 11. All books and papers pertaining to the duties of the office of state assessor shall be deposited with the comptroller.

§ 12. The said assessors, before entering upon the duties of their office, shall take and subscribe the usual oath of office before the secretary of state or a justice of the supreme court.

Appeals.

§ 13. Any supervisor may appeal in behalf of the town, city or ward, which he wholly or in part represents, to the comptroller of the state of New York from any act or decision of the board of supervisors in the equalization of assessments, and the correction of the assessment rolls, under the provisions of the first title of chapter thirteen, of the first part of the Revised Statutes. Such appeal shall be brought by serving a notice thereof, within ten days after the corrected assessment rolls shall be completed by the board of super-

visors, or the chairman and clerk of said board, and also filing such notice in the office of the clerk of the county, together with the affidavit of the supervisor so appealing, that in his opinion injustice has been done to such town, city or ward by the act or decision appealed from. The comptroller shall hear the proofs of the parties, which may be presented in the form of affidavit or otherwise, as he shall direct; after hearing such proofs he shall determine whether any, and if any, what deduction ought to have been made from the corrected valuations of such town, city or ward; and in the assessment and collection of taxes of the next following year, such town or city shall be credited with the amount of taxes levied from it on such excess of valuation, and the same shall be levied and collected from the other towns and cities of the county.

CHAP. 194.

AN ACT in relation to warrants issued by county treasurers against defaulting collectors.

PASSED April 12, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In all cases where any county treasurer shall issue his warrant against a defaulting collector, the said warrant shall direct the sheriff to collect of the said collector, in addition to the amount in which the said collector shall be in default, all costs and fees for collecting.

§ 2. The said sheriff shall receive the same fees as on executions issued out of the supreme court.

CHAP. 285.

AN ACT to amend chapter four hundred and twenty-seven of the Laws of eighteen hundred and fifty-five.

PASSED April 17, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 2. It shall be unlawful for the Comptroller of this State, and for any person employed in the office of such Comptroller, to be interested directly or indirectly in any tax sale made by such Comptroller, or in the title acquired by such sale, or in any money paid or to be paid for the redemption of any lands sold for taxes or on the cancellation of any tax sale; and it shall be unlawful for any person to pay to the Comptroller or to any employee in his office, and for the said Comptroller or any employee in his office to receive, directly or indi-

Comptrol-
ler, &c. not
to be in-
terested in
tax sales.

PART I.

Misdemeanor.

rectly any compensation, reward or promise thereof, from any person or persons who are interested in any purchase or purchases of lands sold for taxes, for any service or services performed or to be performed in regard to such sale, redemption, cancellation or such tax title. If any person offend against any provision of this section, he shall be deemed guilty of a misdemeanor; and the sale by the Comptroller of any lands in which such person shall be interested contrary to the provision of this section, is hereby declared to be void.

CHAPTER XIV.

Public Health.

CHAP. 333.

AN ACT to amend the Third Article of the Second Title of the Fourteenth Chapter of the First Part of the Revised Statutes.

PASSED April 20, 1830.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Healthy persons permitted.

§ 1. In all cases arising under the twenty-eighth section of the article hereby amended, it shall be lawful for the health-officer in his discretion, to permit any healthy person arriving from sea in a healthy vessel, and who may not have been exposed to any infectious or contagious disease during the last fifteen days preceding such arrival at quarantine, to come to the city of New-York without baggage. Ante, vol. 1, p. 335.

CHAP. 304.

AN ACT to amend the first and fourth Articles of the Second Title of the fourteenth Chapter of the First Part of the Revised Statutes, relating to the Public Health.

PASSED April 26, 1831.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Vessels from southern ports.

§ 1. All vessels from any place in America, south of Cape Henlopen, and north of the Equator, or from either of the West-India, Bahama, or Bermuda Islands, leaving such places at any time before the first day of July, in any year, and proceeding from thence to a healthy port in Europe, and having no case of yellow, pestilential, nor infectious fever on board during the voyage, shall be allowed immediately on her return to New-York, to come to such wharf of said city as the

board of health may designate, after such vessel has been subjected to such quarantine and cleansing process as the board of health may be of opinion the health of the city requires.

§ 2. All vessels arriving coastwise at the port of New York, after the first day of September, in any year, from any port or ports in the United States, or British North America north of Cape Henlopen, and shall have remained in such port or ports for thirty days, and which vessel shall not have been in any place in America south of Cape Henlopen, or in the West-India, Bahama, or Bermuda Islands, since the first day of July previous, and having had no case on board of yellow, pestilential or infectious fever or disease, since said first day of July, shall be allowed to come to the wharf in the city of New York, if the board of health consent thereto, after having been examined, pronounced healthy, and permitted by said board.

Vessels
arriving
coastwise.

§ 3. All such vessels as are now exempt from quarantine under the fourteenth chapter of the Revised Statutes, shall not be affected by the provisions of this act. *Ante*, vol. 1, p. 385.

CHAP. 45.

AN ACT to amend the seventh title and fourteenth chapter of the first part of the Revised Statutes, entitled "General regulations concerning the practice of physic and surgery in this state."

PASSED March 27, 1835.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The provisions of the twenty-first section of title seven, chapter fourteen, and first part of the Revised Statutes, shall not be deemed to apply to the diplomas conferring the degree of doctor of medicine granted by the trustees of Geneva college upon the recommendation of the medical faculty of the said college, established at the place where the charter locates the college, and upon the recommendation of at least three curators of the medical profession appointed by the said trustees; but no person shall receive any such diploma, unless he shall have pursued the study of medical science for at least three years after the age of sixteen, with some physician and surgeon duly authorised by law to practice his profession, and shall also, after that age have attended two complete courses of all the lectures delivered in some incorporated medical college; the last of which course shall have been delivered by the medical faculty of Geneva college: and all the provisions of said title seven, which require an attendance upon the lectures delivered at an incorporated medical college, shall be deemed to apply to and include the lectures delivered by the

Geneva
college.

PART I.

medical faculty of Geneva college: and the diplomas granted pursuant to this act, shall have the same force and effect as licenses to practice physic and surgery, as are given by law to the licenses granted by any incorporated medical society in this state.

§ 2. The legislature may at any time modify, alter and repeal this act. *Ante*, vol. 1, p. 401.

CHAP. 532.

AN ACT to amend title seventh, chapter fourteenth, of the first part of the Revised Statutes, and for other purposes.

PASSED May 26, 1836.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Geneva college.

§ 3. The medical faculty of Geneva college are hereby authorized to appoint a delegate to represent them in the state medical society, with all the powers and privileges which delegates from the respective medical colleges of this state possess.

CHAP. 25.

AN ACT authorizing the establishment of a medical faculty in the University of the city of New York.

PASSED February 11, 1837.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Power granted to confer the degree of doctor of medicine.

§ 1. The provisions of the twenty-first section of title seven, chapter fourteen and first part of the Revised Statutes, shall not be deemed to apply to the diplomas conferring the degree of doctor of medicine granted by the council of the University of the city of New York, upon the recommendation of the medical faculty of the said University, established therein; but no person shall receive any such diploma, unless he shall have pursued the study of medical science for at least three years after the age of sixteen, with some physician and surgeon duly authorized by law to practice his profession, and shall also after that age have attended two complete courses of all the lectures delivered in some incorporated medical college, the last of which courses shall have been delivered by the medical faculty of the University of the city of New York: And all the provisions of said title seven which require an attendance upon the lectures delivered at an incorporated medical college, shall be deemed to apply to

and include the lectures delivered by the medical faculty of the University of the city of New York; and the diplomas granted pursuant to this act, shall have the same force and effect as licenses to practise physic and surgery, as are given by law to the licenses granted by any incorporated medical society in this state.

§ 2. The agent of the state prison at Sing-Sing shall deliver, at the prison, to the medical faculty of the University of the city of New York, such dead bodies of convicts as are by law authorized to be dissected, not exceeding one half of the number of such bodies.

Duty of agent of state prison at Sing Sing.

§ 3. Such parts of acts heretofore passed relative to such dead bodies of convicts at Sing-Sing, as are repugnant to this act, are hereby repealed.

Repeal.

§ 4. The medical faculty of the University of the city of New York are hereby authorized to appoint a delegate to represent them in the state medical society, with all the powers and privileges which delegates from the respective medical colleges and faculties of this state possess.

Delegate may be sent to state Medical Society.

§ 5. The legislature may at any time modify, alter or repeal this act.

CHAP. 26.

AN ACT to incorporate the Albany Medical College.

PASSED February 16, 1839.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 5. The trustees for the time being shall have power to grant and confer the degree of doctor of medicine, upon the recommendation of the board of professors of said college, and upon the recommendation of at least three curators of the medical profession, appointed by said trustees: but no person shall receive a diploma conferring such degree, unless he shall be of the age of twenty-one years, and shall have pursued the study of medical science for at least three years after the age of sixteen, with some physician and surgeon duly authorized by law to practice his profession; and shall, also, after that age, have attended two complete courses of all the lectures delivered in some incorporated medical college, the last of which course shall have been delivered by the professors of said college. In testimony of conferring the above honor, a diploma shall be provided and signed by the president and secretary and by the professors of said medical college, to which shall be affixed the corporate seal of said institution; which said diploma shall have the same force and effect as licenses to practise physic and surgery, as are given by law to the licenses granted by any incorporated medical society in this state.

May confer degree of M. D.

PART I.
Delegate to
state medi-
cal society.

§ 7. The medical faculty of the college hereby incorporated, are authorized to appoint a delegate to represent them in the state medical society, with all the powers and privileges which delegates from the respective medical colleges of this state possess.

CHAP. 359.

AN ACT relative to the quarantine laws.

PASSED May 7, 1839.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Board of
appeal.

§ 1. The mayor of the city of New-York, the resident physician and the commissioner of health of said city, are hereby constituted a board of appeal from any direction or regulation of the health officer, with power to grant such and so much relief as may appear to the board thus constituted, or a majority of them, expedient and proper; the decision of the board of health, however, to be paramount.

CHAP. 221.

AN ACT to aid the Albany Medical College.

PASSED May 25, 1841.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Provision
as to indi-
gent stu-
dents.

§ 3. The medical faculty and their successors shall, annually forever, admit to their course of instruction in the Albany Medical College, free of all charges whatever, so many indigent students, not exceeding one from each of the first, second, third and fourth senate districts, as shall be recommended for that purpose by the board of censors of the State Medical Society for such districts.

§ 4. The legislature may at any time alter or repeal this act.

CHAP. 223.

AN ACT to endow the medical institution of Geneva College.

PASSED May 25, 1841.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Provision
as to indi-
gent stu-
dents.

§ 3. The said medical faculty and their successors shall annually, forever, admit to their course of instruction in the

medical institution of Geneva College, free of all charges whatever, so many indigent students not exceeding one from each of the fifth, sixth, seventh and eighth senate districts, as shall be recommended for that purpose by the boards of censors of the State Medical Society for such districts.

§ 4. The legislature may at any time alter or repeal this act.

CHAP. 275.

AN ACT in relation to the practice of Physic and Surgery.

PASSED May 6, 1844.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The twenty-second section of chapter fourteen, title seven, part first of the Revised Statutes, and all laws of this state which prohibit any person from recovering, by suit or action, any debt or demand arising from the practice of physic or surgery, or a compensation for services rendered in attending the sick or in prescribing for the sick, are hereby repealed. Repeal.

4 D., 60; 4 E. D. S., 1.

§ 2. The act entitled "An act concerning the practice of ^{th.} physic and surgery in this state," passed April 7, 1830, is hereby repealed.

§ 3. No person shall be liable to any criminal prosecution or to indictment, for practising physic and surgery without license, excepting in cases of mal-practice, or gross ignorance, or immoral conduct in such practice. Any person may practice.

§ 4. All and every person, not being a licensed physician, who shall practice or attempt to practice physic or surgery, or who shall prescribe for or administer medicines or specifics to or for the sick, shall be liable for damages, in cases of mal-practice, as if such person were duly licensed to practice physic or surgery. Liability for damages.

§ 5. Any person, not being a licensed physician, who shall practice or profess to practice physic or surgery, or shall prescribe medicines or specifics for the sick, and shall, in any court having cognizance thereof, be convicted of gross ignorance, mal-practice or immoral conduct, shall be deemed guilty of a misdemeanor, and liable to a fine of not less than fifty dollars, nor not exceeding one thousand dollars, or imprisonment in the county jail not less than one month, nor exceeding twelve months, or both, in the discretion of the court. And imprisonment

CHAP. 275.

AN ACT relative to the public health in the city of New York.

PASSED April 10, 1850; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

TITLE I.

OF THE OFFICERS OF THE PUBLIC HEALTH IN THE CITY OF NEW YORK.

- Mayor and common council vested with powers of board of health.** § 1. The legislative powers heretofore vested by any existing law of this State, in the board of health of the city of New York, other than as the same are hereinafter modified or altered, shall be vested in the mayor and common council of the said city of New York.
- Board of health.** § 2. The said mayor and common council, when acting in relation to the public health of said city, or in the execution of the said powers, or of those hereinafter conferred, shall be known as the Board of Health of the city of New York, of which ten members shall be necessary to constitute a quorum.
- Quorum.** The mayor shall be the president of such board, and shall have power at any time to convene the same.
- President.** § 3. The sessions of the common council, when acting as a board of health, shall be with closed doors, except when otherwise ordered by said board.
- Sessions of board.** § 4. The president of the board of aldermen, the president of the board of assistant aldermen, the health officer, the resident physician, the health commissioner and city inspector, shall be the commissioners of health.
- Commissioners of health.** § 5. It shall be the duty of the mayor and the commissioners of health to render their advice to the board of health, and to the city inspector of said city, in regard to all matters connected with the public health thereof.
- Duties of mayor and commissioners.** § 6. The health officer shall perform all the duties hereinafter specified, and such other duties as the board of health or the mayor and the commissioners of health shall lawfully require.
- Duties of health officer.** § 7. The health officer may appoint an assistant, for whose conduct he shall be responsible, and who may perform all the duties required of the health officer. Such assistant shall, before entering on the duties of his office, take the oath prescribed in the Constitution of this State.
- Assistant health officer.** § 8. The resident physician shall visit all sick persons reported to the board, or to the mayor and the commissioners of health, and shall perform such other professional duties as the board of health shall enjoin.
- Resident physician.**

§ 9. The health commissioner, under the direction of the board of health, shall assist the resident physician in the discharge of his official duties.

CHAP. XIV.
Health com.
to assist
resident
physician.

§ 10. In the discharge of their duties, the mayor and the commissioners of health, shall meet daily at the office of the board of health, during such part of the year, and at such hours of the day as the said board shall designate.

Meeting of
mayor and
health com-
missioners.

§ 11. The resident physician shall receive an annual salary of twelve hundred and fifty dollars, to be paid by the corporation of said city, and the health commissioners an annual salary of three thousand and five hundred dollars, in lieu of fees and percentage, which shall be paid by the commissioners of emigration; and after the expiration of the term of office of the present health commissioner and resident physician, the said officers shall hereafter be appointed by the mayor of the city of New York, by and with the advice and consent of the board of aldermen of said city.

Salaries.

§ 12. The board of health may, from time to time, appoint so many visiting, hospital and consulting physicians, as they may deem necessary, designate their duties, and fix their compensation.

Other
physicians.

§ 13. The mayor, by and with the advice and consent the board of aldermen, may appoint an inspector of vessels, who shall, under the direction of the mayor and the commissioners of health, or of the board of health, perform the duties required of him in this act, and shall be entitled to receive the following fees:

Inspector of
vessels.

For each cargo inspected by him under such direction, three dollars.

Fees.

For each vessel cleansed and purified by him, under the like direction, five dollars.

Which fees shall be paid by the owner or consignee of the cargo inspected or vessel cleansed and purified.

§ 14. It shall be the duty of such inspector after he shall have performed any service required of him to make an immediate report of his proceedings and their result, to the board of health, or to the mayor and the commissioners of health.

To report to
the board.

TITLE II.

OF QUARANTINE AND REGULATIONS IN THE NATURE OF QUARANTINE, AT THE PORT OF NEW YORK.

ARTICLE I.

OF THE PLACE OF QUARANTINE AND THE VESSELS AND PERSONS SUBJECT THERETO.

§ 1. The anchorage ground for vessels at Quarantine shall be near the place where the Marine Hospital now is, and shall be designated by buoys, to be anchored under the direction of the Health Officer; and every vessel subject to quarantine shall immediately on her arrival anchor within them, and

Quarantine.

PART I.

What ves-
sels subject
to quaran-
tine.

there remain, with all persons arriving in her, subject to the examinations and regulations imposed by law.

§ 2. Vessels arriving at the port of New York, shall be subject to quarantine as follows :

1. All vessels direct from any place where pestilential, contagious or infectious disease existed at the time of their departure, or which shall have arrived at any such place and proceeded thence to New York, or on board of which, during the voyage, any case of such disease shall have occurred, arriving between the thirty-first day of May and the first day of October, shall remain at quarantine for at least thirty days after their arrival, and at least twenty days after their cargo shall have been discharged, and shall perform such further quarantine, as the mayor and the commissioners of health may prescribe.

2. All vessels embraced in the foregoing subdivision, arriving between the first day of April and the first day of November, exclusive of the time in said subdivision mentioned, all vessels from a foreign port, on board of which, during the voyage, or while at the port of departure any person shall have been sick, or from any place in the ordinary passage from which they pass, south of Cape Henlopen, arriving between the thirty-first day of May and the sixteenth day of October, and all vessels from any place (including islands) in Asia, Africa, or the Mediterranean, or from any of the West India, Bahama, Bermuda, or the Western islands, or from any place in America in the ordinary passage from which they pass south of Georgia, arriving between the first day of April and the first day of November, shall be subject to such quarantine and other regulations, as the health officer, with the approval of the mayor and the commissioners of health shall prescribe.

Vessels at
quarantine
after Oct. 1.

§ 3. All vessels and persons remaining at quarantine on the first day of October, shall thereafter be subject to such quarantine and restrictions as vessels and persons arriving on or after that day.

Vessels at
the wharves
may be
removed to
quarantine.

§ 4. The board of health, or the mayor and the commissioners of health, whenever in their judgment the public health shall require, may order any vessel at the wharves of the city, or in their vicinity, to the quarantine ground or other place of safety ; and may require all persons, articles, or things introduced into the city from such vessel, to be seized, returned on board or removed to the quarantine ground or other place. In case the master, owner, or consignee of the vessel cannot be found or shall refuse or neglect to obey the order of removal, the board of health, or the mayor and the commissioners of health, shall have power to cause such removal at the expense of such master, owner, or consignee ; and such vessel or person shall not return to the city without the written permission of the board of health, or of the mayor and commissioners of health.

§ 5. If any vessel arriving at the quarantine ground, subject to quarantine, shall be bound to some port east of the city of New York, the health officer, after having duly visited and examined her, may permit her to pass on her voyage through the sound; but no such vessel shall be brought to anchor off the city, nor shall any of her crew or passengers land in, or hold any communication with the city, or any person therefrom.

[Section 6 repealed by Laws of 1856, ch. 147. Post, p. 412.]

§ 7. Every vessel having had, during the voyage, a case of pestilential, infectious or contagious disease, and every vessel from a foreign port having passengers, and not hereinbefore declared subject to quarantine, shall, on her arrival at the quarantine ground, be subject to visitation by the health officer, but shall not be detained beyond the time requisite for due examination, unless she shall have had on board during the voyage, some case of infectious, contagious or pestilential disease, in which case she shall be subject to such quarantine as the health officer, and the mayor, and the commissioners of health may prescribe; and it shall be the duty of the health officer, whenever he thinks it necessary for the preservation of the public health, to cause the persons on board any vessel to be vaccinated.

§ 8. The master of every vessel released from quarantine and arriving at the city of New York, shall, within twenty-four hours after such release, deliver the permit of the health officer at the office of the mayor.

§ 9. Nothing in this act contained, shall prevent any vessel arriving at the quarantine, from again going to sea before breaking bulk.

ARTICLE II.

OF THE DUTIES OF PILOTS IN RELATION TO VESSELS SUBJECT TO QUARANTINE.

§ 10. It shall be the duty of each branch and deputy pilot belonging to the port, to use his utmost endeavors to hail every vessel which he shall discover to be entering the port, and to demand of the master of every such vessel whether any person has died or been sick on board during the passage, and whether any contagious, infectious or pestilential disease existed at the time of her sailing at the port from whence she sailed.

§ 11. If any of the above questions shall be answered in the affirmative, the pilot shall immediately give notice to the master of the vessel, that he, his vessel, his crew, passengers and cargo, are subject to the examination of the health officer; and shall direct him to proceed and anchor his vessel at the quarantine anchorage, there to await the further directions of the health officer.

§ 12. It shall be the duty of every pilot who shall conduct into port, a vessel subject to quarantine,

CHAP. XIV.
Vessels bound east after being visited may be permitted to pass on.

Vessel subject to limited quarantine.

Master to deliver permit at mayor's office.

Vessels not subject to quarantine.

Pilots to hail all vessels.

What vessels to be conducted to quarantine.

Duties in respect to vessels at quarantine.

PART I.

1. To bring such vessel to anchor within the buoys marking the quarantine anchorage.
2. To prevent any vessel or boat from coming along side of the vessel under his charge, and to prevent anything on board from being thrown into any other vessel or boat.
3. To present to the master of the vessel, a printed copy of this title, when such copy shall have been delivered to him for that purpose.
4. To take care that no violations of this title be committed by any person on board, and to report such as may be committed, as soon as may be, to the health officer.

ARTICLE III.

REGULATIONS CONCERNING THE TREATMENT, CONDUCT, AND DUTIES OF VESSELS, ARTICLES AND PERSONS UNDER QUARANTINE.

Health officer to board and examine vessels.

§ 13. It shall be the duty of the health officer to board every vessel subject to quarantine or visitation by him, immediately on her arrival, at any time between sunrise and sunset; to enquire as to the health of all persons on board, and the condition of the vessel and cargo by inspection of the bill of health, manifest, log-book or otherwise; to examine on oath as many and such persons on board of vessels suspected of coming from a sickly port, or having had sickness on board during the voyage, as he may judge expedient, and to report the facts and his conclusions, and especially to report the number of persons sick, and the nature of the disease with which they are afflicted, to the mayor and to the commissioners of health, in writing.

Removal of vessel.

§ 14. It shall be the duty of the health officer to reside within the quarantine grounds, and he shall have power,

Discharge of cargo.

1. To remove from the quarantine anchorage ground, any vessel he may think unsafe, to any place south of the quarantine buoys, and inside of Sandy Hook.

Purification.

2. To cause any vessel under quarantine, when he shall judge it necessary for the purification of the vessel or her cargo, to discharge her cargo at the quarantine ground or some other suitable place out of the city.

3. To cause any such vessel or her cargo, bedding and the clothing of persons on board, to be ventilated, cleansed and purified in such manner, and during such time as he shall direct, and if he shall judge it necessary to prevent infection or contagion, to destroy any portion of such bedding or clothing and with the authority of the mayor or commissioners of health, any portion of such cargo, which he may deem incapable of purification.

Crew and passengers.

4. To prohibit and prevent all persons arriving in vessels subject to quarantine, from leaving quarantine, or removing their goods or baggage therefrom, until fifteen days after the sailing of their vessel from her port of departure, and fifteen days after the last case of pestilential, contagious or infectious disease shall have occurred on board, and ten days after her

arrival at quarantine, unless sooner discharged by him, with the consent of the mayor and the commissioners of health.

5. To permit the cargo of any vessel under quarantine, or any portion thereof, when he shall judge the same free from infection and contagion, to be conveyed to the city of New-York, or such place as may be designated by the mayor and the commissioners of health, after having reported in writing to the mayor and the commissioners of health of said city, the condition of said cargo, and his intention to grant such permission; such permission, however, to be inoperative without the written approval of the mayor and the commissioners of health.

Cargo when conveyed to New York.

[Section 15 repealed by Laws of 1856, ch. 147. Post, p. 405.]

§ 16. Every sick person sent to the marine hospital, shall be there kept and attended to with all necessary and proper care; and no such person shall leave the hospital until the health officer shall grant a discharge, in writing.

Sick persons.

§ 17. The commissioners of emigration shall remove from the marine hospital, and take charge of all emigrants whose quarantine has expired, and who shall have sufficiently recovered from the diseases with which they were admitted, on the notification in writing of the health officer that such removal will not, with ordinary care, endanger the safety of the individual, or the health of the community.

Emigrants whose quarantine has expired.

§ 18. The health officer, the board of health, or the mayor and the commissioners of health may, if in their opinion it will not be dangerous to the public health, permit the cargo of any vessel under quarantine, or any part thereof to be shipped for exportation by sea, or transportation up the North or East rivers; but if the vessel receiving the same shall approach nearer than three hundred yards to the wharves of the city, such cargo may be seized and sold by the mayor and the commissioners of health, for the use of the marine hospital.

Cargo when it may be shipped for exportation

§ 19. Every vessel, during her quarantine, shall be designated by colors, to be fixed in a conspicuous part of her main shrouds.

Vessels at quarantine how designated.

§ 20. No vessel or boat shall pass through the range of vessels lying at quarantine, or land at the quarantine ground after sunset, without the permission of the health officer.

Vessels not to pass through the range at quarantine.

§ 21. No lighter shall be employed to load or unload vessels at quarantine, without permission of the health officer, and subject to such restrictions as he shall impose.

Lighters to be subject to direction of health officer.

[Section 22 repealed by Laws of 1856, ch. 147. Post, p. 405.]

§ 23. The health officer, upon the application of the master of any vessel under quarantine, may confine in any suitable place on shore, any person on board of such vessel charged with having committed an offence punishable by the laws of this state, or the United States, and who cannot be secured on board such vessel; and such confinement may

Criminals when and how confined.

PART I.

continue during the quarantine of such person, or until he shall be proceeded against in due course of law; and the expenses thereof shall be charged and collected as in the last preceding section.

Board of
appeal.

§ 24. The mayor and the commissioners of health of said city, shall constitute a board of appeal, from any direction or regulation of the health officer, with power to grant such and so much relief as may appear to such board, or a majority of them, meet and proper; the decision of said board of appeal to be final.

Appeals
how
brought.

§ 25. Every appeal from a decision of the health officer shall be made by serving upon him a written notice of such appeal within twelve hours after such decision, (Sundays excepted) and the health officer shall make a return in writing, including the facts on which his decision is founded, within twelve hours after the receipt of such notice, (Sundays excepted) to the mayor, who shall immediately call a meeting of the board of appeal and shall be president of said board; and said appeal shall be heard and decided within twenty-four hours thereafter, (Sundays excepted) and the execution of the decision appealed from shall be suspended until the determination of the appeal.

ARTICLE IV.**OF THE REGULATION OF INTERCOURSE WITH INFECTED PLACES.**

Mayor to
make pro-
clamation of
infected
places

§ 26. The mayor of the city of New York may issue his proclamation declaring any place where there shall be reason to believe a pestilential, contagious or infectious disease actually exists, to be an infected place within the meaning of the health laws of this state.

How long to
have effect.

§ 27. Such proclamation shall fix the period when it shall cease to have effect; but such period, if they shall judge the public health to require it, may from time to time be extended by the board of health, and notice of such extension shall be published in one or more of the newspapers of the city.

Vessels
from
infected
places to be
subject to
quarantine.

§ 28. After such proclamation shall have been issued, all vessels arriving in the port of New York from such infected place shall be subject to a quarantine of at least thirty days or until the period when such proclamation shall cease to have effect as provided by the last preceding section, and shall, together with their officers, crews, passengers and cargoes be subject to all the provisions, regulations and penalties of this act, in relation to vessels subject to quarantine.

Intercourse
with in-
fected
places how
regulated.

§ 29. The board of health may, in their discretion, prohibit or regulate the internal intercourse by land or water between the city of New York and such infected place; and may direct that all persons who shall come into the city of New York, contrary to their prohibitions or regulations, shall be apprehended and conveyed to the vessel or place whence they last came; or if sick, that they be conveyed to the marine hospital or such other place as the board of health shall direct.

ARTICLE V.

PENALTIES FOR VIOLATING THE PROVISIONS OF THIS TITLE.

§ 30. Every master of a vessel subject to quarantine or visitation arriving in the port of New York who shall refuse or neglect either,

Duties of masters of vessels arriving at port of New York, and penalties for violating them.

1. To proceed with and anchor his vessel at the place assigned for quarantine at the time of his arrival;

2. To submit his vessel, cargo and passengers to the examination of the health officer and to furnish all necessary information to enable that officer to determine to what length of quarantine and other regulations they ought respectively to be subject; or

3. To remain with his vessel at quarantine during the period assigned for her quarantine; and while at quarantine to comply with the directions and regulations prescribed by law, and with such as any of the officers of health, by virtue of the authority given to them by law, shall prescribe in relation to his vessel, his cargo, himself, his passengers or his crew shall be guilty of a misdemeanor and be punished by a fine not exceeding two thousand dollars, or by imprisonment not exceeding twelve months, or by both such fine and imprisonment.

§ 31. Every master of a vessel hailed by a pilot who shall either,

Further penalties.

1. Give false information to such pilot relative to the condition of his vessel, crew, passengers or cargo, or the health of the place or places whence he came, or refuse to give such information as shall be lawfully required;

2. Or land any person from his vessel, or permit any person, except a pilot, to come on board his vessel, or unlade or tranship any portion of his cargo, before his vessel shall have been visited and examined by the health officer;

3. Or shall approach with his vessel nearer the city of New York than the place of quarantine to which he shall be directed shall be guilty of the like offence, and be subject to the like punishment.

And every person who shall land from any such vessel, or unlade or tranship any portion of her cargo, under like circumstances, shall be guilty of the like offence and be subject to the like punishment.

§ 32. Every person who shall violate any provision of this title, or neglect or refuse to comply with the directions and regulations which any of the officers of health may prescribe, shall be guilty of the like offence, and be subject, for each offence, to the like punishment.

General fining clause.

§ 33. Every person who shall oppose or obstruct the health officer in performing the duties required of him, shall be guilty of the like offence, and be punished by fine not exceeding five hundred dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment.

Penalty for obstructing health officer.

PART I.
Penalty for
trespassing
on quaran-
tine ground

§ 34. Every person who, without authority, shall go within the enclosure of the quarantine ground, shall be guilty of a like offence, and be punished by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days, or by both such fine or imprisonment.

Section 35 repealed by Laws of 1856, ch. 147. Post, p. 412.

Penalty for
violating
provisions
of article
IV.

§ 36. Every person who shall violate the provisions of Art. fourth of this title, by refusing or neglecting to obey or comply with any order, prohibition or regulation made by the board of health in the exercise of the powers therein conferred, shall be guilty of a misdemeanor, punishable by fine and imprisonment in the discretion of the court by which the offender shall be tried.

TITLE III.

INTERNAL REGULATIONS FOR THE PRESERVATION OF THE PUBLIC HEALTH OF THE CITY OF NEW YORK.

ARTICLE I.

OF CERTAIN DUTIES AND POWERS OF THE CITY INSPECTOR, THE BOARD OF HEALTH, AND THE MAYOR AND COMMISSIONERS OF HEALTH.

City inspector
may appoint.

Health
wardens.

§ 1. The city inspector of the city of New York shall have power,

1st. To appoint, by and with the advice and consent of the board of aldermen of said city, from time to time, all and so many health wardens and other officers, as the common council or the board of health shall direct, to carry into effect the provisions of this title, and the rules and regulations of the board of health, the laws and ordinances of the common council of said city, and the laws of this state, relating to the public health. Such health wardens and officers shall be subject to the supervision and control of the city inspector.

Who shall
enter and
examine
buildings.

2d. To authorize such officers at such times as he shall think fit, to enter into and examine in the daytime all buildings, lots and places of every description within the city, and to ascertain and report to the Mayor, and the Commissioners of Health, the condition thereof, so far as the public health may be affected thereby.

To give
notice to
board of
health of
unhealthy
business or
trade.

3rd. It shall be the duty of the city inspector on complaint being made to him or whenever he shall deem any business, trade or profession carried on by any person or persons in the city of New York detrimental to the public health, to notify such person or persons to shew cause before the Board of Health at a time and place to be specified in such notice why the same should not be discontinued or removed, which notice shall be a notice of not less than three days (except in case of epidemic or pestilence, the Board of Health may by general order direct a shorter time not less than twenty-four hours) and may be served by leaving the same at the place of business or residence of the parties to be affected thereby. Cause may be shown by affidavit and the order of the Board of Health shall be final and conclusive thereon.

4th. The said city inspector to give all such directions, and adopt all such measures for cleansing and purifying all such buildings, lots and other places, and to do or cause to be done, everything in relation thereto, which, in the opinion of the Mayor, and the Commissioners of Health of the City, shall be deemed necessary. Every person who shall disobey any order of the city inspector, or of the board of health, which shall have been personally served upon them, to abate or remove any nuisance in the manner and at the time described in such order, shall, on complaint of the city inspector, or of the person serving such order, before the mayor or any police justice of said city, be liable to arrest and summary punishment by fine, not exceeding one thousand dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment.

CHAP. XIV.
To take
means to
cleanse and
purify the
city.

5th. To adopt such prompt measures to prevent the spreading of any contagious, infectious or pestilential disease, as shall be directed by the mayor and the commissioners of Health, when it shall appear to the mayor and commissioners of health, that any person within the city is afflicted with any disease of that character.

To prevent
the spread
of conta-
gious dis-
eases.

§ 2. The mayor, aldermen and commonalty of the city of New York, shall have full power and authority to make and pass all such by-laws and ordinances, as they shall from time to time deem necessary and proper for the preservation of the public health of said city, and also for the abatement and removal of all and every nuisance in said city, and for compelling the proprietors or owners of the lot or lots upon which the same may be, to abate and remove the same.

By-laws.

§ 3. It shall be lawful for the said mayor, aldermen and commonalty, in all cases where they may deem it necessary for the more speedy execution of said by-laws or ordinances, or any of them, to cause any such nuisance or nuisances to be abated or removed at their own expense, and they are hereby authorised to levy and collect the sum or sums so expended, with lawful interest, and all reasonable costs and expenses attending such proceedings, by distress and sale of the goods and chattels of the proprietors or owners of the lots and premises, from which such nuisance or nuisances shall have been abated or removed, or to recover the amount of every such expense, by action in any court of record, from such owner or owners respectively, on whose account the same shall have been expended, their respective heirs, executors or administrators; in all which actions they shall also recover lawful interest upon the amount of said expense from the time of payment thereof, with full costs of suit.

Nuisances.

§ 4. That the amount of every such expense, which the said mayor, aldermen and commonalty shall incur or pay as aforesaid, on account of the owner or owners of such lots or premises, for the abatement or removal of any such nuisance or nuisances, shall be a real incumbrance upon the lots and

Expense of
removing
nuisances
how paid.

PART I.

Duties of
board of
health to
prevent the
spread of
disease in
the city.

premises from or upon which such nuisance or nuisances shall be abated or removed, and shall bear lawful interest until paid, and that the same may be recovered or the payment thereof with costs enforced in like manner, as if the said lots and premises were mortgaged to the said mayor, aldermen and commonalty for the payment thereof.

§ 5. It shall be the duty of the board of health,

1. To cause any avenue, street, alley or other passage whatever, to be fenced up or otherwise enclosed, if they shall think the public safety requires it, and to adopt suitable measures for preventing all persons from going to any part of the city so enclosed.

2. To forbid and prevent all communication with the house or family infected with any contagious, infectious, or pestilential disease, except by means of physicians, nurses or messengers, to carry the necessary advice, medicines and provisions to the afflicted.

3. To adopt such measures for preventing all communication between any part of the city infected with a disease of a pestilential, infectious, or contagious character, and all other parts of the city, as shall be prompt and effectual.

4. To procure suitable places for the reception of persons sick of any pestilential, infectious or contagious disease, and in all cases where sick persons cannot otherwise be provided for, to procure for them proper medical and other attendance and provision.

5. To publish, from time to time, all such regulations as they shall have made, in such manner as to secure early and full publicity thereto.

6. To issue warrants to any constable or police officer in said city, to apprehend and to remove such person and persons as cannot otherwise be subjected to the regulations by them adopted; and whenever it shall be necessary so to do, to issue their warrant to the sheriff of the city and county of New-York, to bring to their aid the power of the county; all which warrants shall be forthwith executed by the officers to whom the same shall be directed, who shall possess the like powers and be subject to the like duties in the execution thereof, as if the same had been duly issued out of any court of record in this State.

Board of
health may
remove any
thing dan-
gerous to
public
health.

§ 6. The board of health or the mayor and the commissioners of health, when they shall judge it necessary, may cause any cargo or part of cargo, or any matter or any thing within the city, that may be putrid or otherwise dangerous to the public health, to be destroyed or removed; such removal when ordered, shall be to the quarantine ground, or such other place as the board of health shall direct; such removal or destruction shall be made at the expense of the owner or owners of the property so removed or destroyed, and the same may be recovered from such owner or owners, in an

action at law, by the mayor, aldermen and commonalty of said city.

§ 7. The board of health may send to the marine hospital, or such other place as the board of health may direct, all aliens and other persons in the city, not residents thereof, who shall be sick of any infectious, pestilential or contagious disease. The expense of the support of such aliens or other person, shall be defrayed by the corporation of the city of New York, unless such aliens or other persons shall be entitled to be supported by the commissioners of emigration.

Non-residents may be sent to marine hospital.

§ 8. The board of health shall have power to take possession of, and occupy for temporary hospitals, any building or buildings in the said city, during the prevalence of an epidemic, if in their judgment the same may be required, and shall pay for private property so taken a just compensation for the same.

May occupy buildings for temporary hospitals.

§ 9. It shall be the duty of the mayor and the commissioners of health, from time to time to communicate to the board of health all reports that shall be made to them or either of them, under the provisions of this law; and it shall be the further duty of the mayor and the commissioners of health, and of each of them, so to communicate all information in their power, that may better enable the board of health to preserve the health of the city.

Mayor and commissioners of health to report to board of health.

ARTICLE II.

OF THE DUTIES OF PHYSICIANS AND OTHER PERSONS.

§ 10. It shall be the duty of each and every practising physician in the city of New York,

Duties of physicians.

1. Whenever required by the board of health, or the mayor and the commissioners of health of said city, to report to the city inspector of said city, at such times, in such forms as said board may prescribe, the number of persons attacked with any pestilential, contagious or infectious disease attended by such physician for the twenty-four hours next preceding, and the number of persons attended by such physician, who shall have died in said city during the twenty-four hours next preceding such report, of any such pestilential, contagious or infectious disease.

2. To report in writing to the city inspector, the board of health, or to the mayor and the commissioners of health, every patient he shall have laboring under any pestilential, contagious or infectious disease, and within twenty-four hours after he shall ascertain or suspect the nature of the disease.

3. To report to the city inspector, when required by the board of health, the death of any of his patients who shall have died of disease within twenty-four hours thereafter and to state in such report the specific name and type of such disease.

§ 11. Every person keeping a boarding or lodging-house in the city of New York, shall, whenever required by the mayor

Duties of boarding house keepers.

PART I.

and the commissioners of health, report in writing to the city inspector, the board of health or the mayor and the commissioners of health, the name of every person who shall be sick in his house within twelve hours after each case of sickness shall have occurred.

Duties of
masters and
owners of
vessels.

§ 12. Every master, owner or consignee of a vessel, lying at a wharf, or in the harbor of the city of New York, shall make a like report, and within the same period, of the name of every sick person on board such vessel; and no person shall be removed therefrom without a written permit for that purpose from the board of health, or the mayor, or one of the commissioners of health.

Physicians
violating
act to be
reported to
board of
health.

§ 13. It shall be the duty of each commissioner of health, and of each visiting, hospital and consulting physician, to make an immediate report to the board of health, of the name of every practising physician by whom he shall have reason to believe the provisions of the tenth section of this title have been violated; and if such physician shall neglect or refuse to perform his duty, the board shall suspend him from his office, and he shall moreover be liable to such further penalty as the said board shall prescribe.

ARTICLE III.

PROHIBITIONS AND PENALTIES.

May pro-
hibit pack-
ing salted
provisions.

§ 14. The board of health shall have power to prohibit at such times, and for such period and periods of time as they shall see cause, the packing or repacking of any salted provisions in any and all parts of the city.

Salted beef,
&c. not to
be deposit-
ed in city.

§ 15. No salted or pickled beef, pork or fish, (except smoked beef and fish) shall be deposited in such part or parts of the city, during the period or periods of time so prohibited by the board of health under the last preceding section.

Retail gro-
cers may
keep not
exceeding
five barrels.

§ 16. The last preceding section shall not be construed to prevent retail grocers, or other small dealers from keeping on hand for the use of their customers, small quantities, not exceeding five barrels, of each kind of provisions therein mentioned, if the provisions so kept be sound and in good order.

Salted pro-
visions,
hides, and
cotton to be
reported to
city inspec-
tor.

§ 17. All salted or pickled provisions, and all hides, skins and cotton that may be deposited in those parts of the city wherein the board of health shall prohibit the packing or repacking of salted provisions, at the time or times when such prohibition may be made, shall be reported forthwith by the owner or person having charge thereof, to the office of the city inspector, that the same may be examined, and if necessary destroyed or removed.

Such arti-
cles to be
removed by
owner, or
city inspec-
tor.

§ 18. If such articles when ordered to be removed by the city inspector, shall not be forthwith removed by the owner or person having charge thereof, the city inspector shall cause them to be removed to some safe place, there to remain at the risk of the owner.

§ 19. The expense of the removal and subsequent storage of such articles shall be borne by the owner or person having charge thereof when removed, and if paid in the first instance by the city inspector, may be recovered by the city inspector in an action against such owner or bailee, or if payment of such expenses be refused by the owner or bailee, the city inspector may cause such articles to be sold, and shall account for the proceeds, deducting such expenses and the costs of sale.

§ 20. Nothing contained in this article shall be construed to extend to provisions exposed for sale by butchers in the public markets or kept by the heads of families for family use.

§ 21. Every person who shall refuse or neglect to obey the directions of this article, or of the board of health or city inspector pursuant thereto, in relation to the provisions and other articles above mentioned, shall be considered guilty of a misdemeanor, and on conviction shall be subject to fine or imprisonment, or both, at the discretion of the court. Such fine shall not exceed one thousand dollars, and such imprisonment shall not exceed two years.

§ 22. No rags, hides or skins, arriving in the port of New York, shall be deposited in any part of the city within which the board of health shall have prohibited the packing or re-packing of salted provisions, and all such articles brought into the city contrary to the above provision, may be seized and sold by the mayor and the commissioners of health for the use of the marine hospital.

§ 23. The board of health, or the mayor and the commissioners of health, may, however, permit sound hides and skins to be brought into any part of the city, in small quantities, and for the purpose of immediate manufacture, but not otherwise.

§ 24. It shall be the duty of the master and owner of every vessel that shall have brought cotton into the city between the first day of May and the first day of November in any year, and of the owner and consignee of such cotton, if upon examination it shall appear damaged, or otherwise unsound, to make an immediate report thereof to the mayor and the commissioners of health.

§ 25. Every master or owner or consignee refusing or neglecting to perform the duties so enjoined, shall, for each offence, forfeit to the commissioners of health the sum of five hundred dollars.

§ 26. Every person who shall violate any regulation, order or direction of the city inspector or of the board of health, made or given in the exercise of any of the powers vested in them by any section of this title, shall be considered guilty of a misdemeanor, and on conviction thereof be subject to fine or imprisonment, or both, at the discretion of the court. Such fine shall not exceed one thousand dollars and such imprisonment shall not exceed two years.

CHAP. XIV.
Expense to
be borne by
owner.

Exception.

Penalty.

Rags, hides
and skins
prohibited.

Sound hides
and skins
for manu-
facture
excepted.

Damaged
cotton to be
reported by
owner.

Penalty for
not report-
ing, \$500.

Penalty for
violating
any section
of this title.

PART I.
Physicians
violating
§ 10 subject
to fine and
imprison-
ment.

§ 27. Every practising physician who shall refuse or neglect to perform the duties enjoined on him by the tenth section of this title, shall be considered guilty of a misdemeanor and shall also forfeit for each offence the sum of two hundred and fifty dollars, to be sued for and recovered by the board of health.

Penalties
for viola-
ting §§ 11
and 12 of
this title.

§ 28. Every keeper of a boarding or lodging house and every master, owner or consignee of a vessel who shall refuse or neglect to obey the orders and directions of the mayor and the commissioners of health as provided in the eleventh and twelfth sections of this title, shall be considered guilty of a misdemeanor, and on conviction shall be fined for each offence in a sum not exceeding two hundred and fifty dollars or be imprisoned for a term not exceeding six months.

ARTICLE IV.

GENERAL PROVISIONS.

Power to
extend pro-
visions of
this act.

§ 29. Whenever it shall appear to the board of health that any of the provisions of this act, limited in their operations to a certain period of the year, ought to be extended, the mayor of the city shall issue his proclamation extending such provisions to such time as shall be determined on by said board, and such provisions shall thereupon be extended accordingly and with the like effect as if the periods mentioned in the proclamation had been herein enacted.

Mayor may
revoke pro-
clama-
tion.

§ 30. If it shall appear to the board of health, while such proclamation is still in force, that the necessity of extending the period therein named has ceased, the mayor by a new proclamation, declaring that fact, shall revoke the proclamation issued, pursuant to the preceding section, which shall then cease to have effect.

Fines and
penalties
to whom
paid.

§ 31. All fines, forfeitures and penalties imposed in this act or under the powers delegated therein, shall be paid to the health commissioners to and for the use of the city of New York, and such as are recoverable by suit shall be sued for by the commissioners of health, in their name of office, unless otherwise herein provided.

All offences
to be re-
ported to
district
attorney to
be prose-
cuted.

§ 32. It shall be the duty of the mayor and the commissioners of health, and of each of them, to give information to the district attorney of the city and county of New York, of all offences against the provisions of this act that shall come to their knowledge, that he may prosecute the offenders without delay in the court of sessions of the city.

Death of
officers not
to abate
suit.

§ 33. No suit that shall be brought by the board of commissioners of health or the health officer or city inspector, in their respective names of office, in pursuance of the authority given in this act, shall abate on account of the death of the officer or officers by whom the same shall be commenced.

Declaratory

§ 34. The provisions of the foregoing titles of this act shall extend to all diseases which in the opinion of the board of health or the mayor and commissioners of health, shall be

deemed dangerous to the public health; and nothing in this act shall be construed to interfere with the remedies against nuisances provided by the common law.

§ 35. The mayor and the commissioners of health shall from time to time cause such parts as they shall deem necessary of this act to be printed, and shall deliver the same to the respective pilots of the port for distribution to the masters of vessels subject to quarantine.

Act to be printed and distributed.

§ 36. It shall be the special duty of all magistrates and civil officers, and of all citizens of the state, to aid to the utmost of their power the board of health and all the health officers mentioned in this act, in the performance of their respective duties.

Duties of magistrates

§ 37. Bills of health to masters of vessels shall be granted by the mayor.

Bills of health.

§ 38. The act entitled "An act concerning quarantine and regulations in the nature of quarantine at the port of New York," passed May 13th, 1846, is hereby repealed; but such repeal shall be in nowise construed or deemed to revive any act or part of an act repealed thereby. And all other laws inconsistent with this act are hereby repealed.

Repeal.

But nothing contained in this act shall be construed as repealing any part of the act entitled "An act to amend the charter of the city of New York," passed April 2d, 1849.

CHAP. 324.

AN ACT for the preservation of the Public Health.

PASSED April 10, 1850; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be the duty of the common council of every city, and the trustees of every incorporated village in this state, in which there is not now a board of health duly organized, to appoint once in each year, a board of health for such city or village, to consist of not less than three nor more than seven persons, and a competent physician, to be the health officer thereof.

Board of health to be organized.

18 B., 567.

§ 2. The supervisor and justices of the peace, or the major part of them, of each town in this state, shall be a board of health for such town for each year, whenever, in the opinion of the majority of such board, the public good requires it; and they shall appoint some competent physician to be the health officer for such town.

Supervisor and justices constituted a board of health.

§ 3. The several boards of health now organized in any city or village in this state, and the several boards of health constituted under this act, shall have power, and it shall be their duty,

Powers of boards of health.

PART I.

1. To meet in their respective cities, villages and towns, and fix and determine the period of quarantine to which vessels, vehicles, or persons arriving in such city, village or town, shall be subject; but the said board shall have power, after an examination, to reduce the period of quarantine of such vessel, vehicles or persons, if they shall deem it safe so to do.

2. To prescribe the duties and powers of the health officer; to direct him from time to time in the performance thereof; and to fix the compensation he shall receive.

3. To make regulations in their discretion, concerning the place and mode of quarantine; the examination and purification of vessels, boats, and other craft, not under quarantine; the treatment of vessels, articles or persons thereof; the regulation of intercourse with infected places; the apprehension, separation and treatment of emigrants and other persons who shall have been exposed to any infectious or contagious disease; the suppression and removal of nuisances; and all such other regulations as they shall think necessary and proper for the preservation of the public health.

4. To regulate and prohibit or prevent all communication or intercourse by and with all houses, tenements and places, and the persons occupying the same, in which there shall be any person who shall have been exposed to any infectious or contagious disease.

5. To procure suitable places for the reception of persons under quarantine, and persons sick with the Asiatic or malignant cholera, or any other malignant, infectious or contagious disease; and in all cases where sick persons cannot otherwise be provided for, to procure for them proper medical and other attendance and necessaries.

6. To publish from time to time all such regulations as they shall have made, in such manner as to secure early and full publicity thereto.

7. To issue warrants to any constable of their respective cities, villages or towns, to apprehend and to remove such persons as cannot otherwise be subjected to the regulations by them adopted; and whenever it shall be necessary to do so, to issue their warrant to the sheriff of their respective counties, to bring to their aid the power of the county; all which warrants shall be forthwith executed by the officers to whom they shall be directed, who shall possess the like powers, and be subject to the like duties in the execution thereof, as if the same had been duly issued out of any court of record in this state.

8. To employ all such persons as shall be necessary to enable them to carry into effect the regulations they shall have adopted and published, and the powers vested in them by this act, and to fix their compensation.

§ 4. Every person who shall willfully violate any regulation so made and published by any such board of health, shall be deemed guilty of a misdemeanor, and on conviction thereof

shall be subject to fine or imprisonment, or both, at the discretion of the court, such fine not to exceed one thousand dollars nor such imprisonment two years.

§ 5. The expenses incurred by the several boards of health in the execution of this act, to the amount of not exceeding three hundred dollars, shall be a charge upon the several counties according to the provision of said act; and all expenses incurred as above, exceeding said sum of three hundred dollars, shall be charged, levied and collected upon the town, city or village where such expenses have been made.

Expenses of board how defrayed.

Thus amended Laws of 1854, ch. 169.

§ 6. Whenever any pestilence, or infectious, or contagious disease shall exist in any county poor house in this state, or in the vicinity of any such county poor house, and the physician of such county poor house shall certify that such pestilence or disease is likely to endanger the health of the persons supported at such poor house, the superintendent of such county poor house shall have power to cause the persons supported at such poor house, or any of them, to be removed to such other suitable place in the same county as shall be designated by the board of health of the city, town or village within which such poor house shall be, there to be maintained and provided for at the expense of the county, with all necessary medical care and attendance, until they can be safely returned to the county poor house from which they were taken, or otherwise discharged.

Persons sick of infectious disease may be removed from county poor-house.

§ 7. The secretary of the state shall cause copies of this act to be printed and transmitted within four weeks after its passage, in such manner as he shall think expedient, to the mayor of every city, and the trustees of every incorporated village, and the supervisors of every town in this state. The expenses incurred under this section shall be audited by the comptroller, and on his warrant shall be paid out of the treasury of this state.

Duty of secretary of state.

§ 8. The city and county of New York, and the city of Brooklyn, are hereby excepted from the provisions of this act.

Exception

CHAP. 415.

AN ACT in relation to the indictment and place of trial of nuisances.

PASSED July 8, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any nuisance shall be erected or continued, on or near the boundary lines of the counties of New York, Westchester and Queens, the same, and the persons by whom such nuisance shall have been erected or continued, may be indicted in either county injuriously affected thereby; and

County where trial to be had.

ART I.

thereupon the same proceedings shall be had and taken, and the sentence of the court may be enforced in the same manner as if the said nuisance was situated within the county in which the indictment was found.

Record of
conviction
and process

§ 2. The record of any conviction under this act, shall be filed in the clerk's office of the county, in which such nuisance is located; and thereupon process shall be issued to the sheriff of such county to abate such nuisance, in the same manner as if the conviction was had in the county in which the record was filed.

CHAP. 147.

AN ACT Relative to public health and Quarantine, and regulations in the nature of Quarantine at the port of New York, and to the Marine Hospital.

PASSED April 9, 1856; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Anchorage
ground.

§ 1. The anchorage ground for vessels at quarantine shall be near the place where the Marine hospital now is, and shall be designated by buoys to be anchored under the direction of the health officer, and every vessel subject to quarantine shall immediately on her arrival anchor within them, and there remain with all persons arriving on her, subject to the examinations and regulations imposed by law.

Quarantine
of vessel.

§ 2. Vessels arriving at the port of New York shall be subject to quarantine as follows: 1st. All vessels from any place where pestilential, contagious or infectious disease existed at the time of their departure, or which shall have arrived at any such place and proceeded thence to New York, or on board of which during the voyage any case of such disease shall have occurred, arriving between the first day of April and the first day of November, shall remain at quarantine for at least thirty days after their arrival, and at least twenty days after their cargo shall have been discharged, and shall perform such further quarantine as the mayor and commissioners of health may prescribe, unless the health officer, with the approval of the mayor or commissioners of health, shall sooner grant a permit for said vessel or cargo, or both, to proceed. 2nd. All vessels from any place (including islands) in Asia, Africa or the Mediterranean, or from any of the West Indies, Bahama, Bermuda or Western islands, or from any place in America in the ordinary passage from which they pass south of Cape Henlopen, and all vessels on board of which, during the voyage or while at the port of their departure, any person shall have been sick, arriving between the first day of April and the first day of November, and all vessels from a foreign

port, not embraced in the first sub-division of this section, shall, on their arrival at the quarantine ground, be subject to visitation by the health officer, but shall not be detained beyond the time requisite for due examination and observation, unless they shall have had on board during the voyage some case of infectious, contagious or pestilential disease, in which case they shall be subject to such quarantine and regulations as the health officer and the mayor or commissioners of health may prescribe. 3d. All vessels embraced in the foregoing provisions which are navigated by steam, shall be subject only to such length of quarantine and regulations as the health officer shall enjoin, unless they shall have had on board during the voyage some case of infectious, contagious or pestilential disease, in which case they shall be subject to such quarantine as the health officer and the mayor or commissioners of health shall prescribe.

§ 3. All vessels and persons remaining at quarantine on the first day of November, shall thereafter be subject to such quarantine and restrictions as vessels and persons arriving on and after that day.

Quarantine
on 1st Nov.

§ 4. The board of health, or the health officer, or the mayor and commissioners of health, whenever in their judgment the public health shall require, may order any vessel at the wharves of the city, or in their vicinity, to the quarantine ground or other place of safety, and may require all persons, articles or things, introduced into the city from such vessels, to be seized, returned on board, or removed to the quarantine ground or other place. If the master, owner or consignee of the vessel can not be found, or shall refuse or neglect to obey the order of removal, the board of health, or the health officer, or the mayor and commissioners of health, shall have power to cause such removal at the expense of such master, owner or consignee, and such vessel or person shall not return to the city without the written permission of the board of health, health officer, or mayor and commissioners of health.

Vessels at
the wharves
of the city
may be
ordered to
quarantine
ground.

§ 5. If any vessel arriving at the quarantine ground, subject to quarantine, shall be bound to some port east of the city of New York, the health officer, after having duly visited and examined her, may permit her to pass on her voyage through the sound; but no such vessel shall be brought to anchor off the city, nor shall any of her crew or passengers land in, or hold any communication with the city, or any person therefrom.

Vessels
bound to
eastern
ports.

§ 6. The master of every vessel released from quarantine and arriving at the city of New York, shall, within twenty-four hours after such release, deliver the permit of the health officer at the office of the mayor.

Permit to
be delivered
at Mayor's
office.

§ 7. Nothing in this act contained shall prevent any vessel arriving at quarantine from again going to sea before breaking bulk.

PART I.

Duty of
branch and
deputy
pilots.

§ 8. It shall be the duty of each branch and deputy pilot belonging to the port, to use his utmost endeavors to hail every vessel he shall discover entering the port, and to interrogate the master of such vessel in reference to all matters necessary to enable such pilot to determine whether, according to the provisions of the preceding sections, such vessel is subject to quarantine or examination by the health officer.

Notice to
master of
vessel.

§ 9. If, from the answers obtained from such inquiries, it shall appear that such vessel is subject to quarantine or examination by the health officer, according to the preceding provisions, the pilot shall immediately give notice to the master of the vessel, that he, his vessel, his cargo, crew and passengers, are subject to such examination, and that he must proceed and anchor said vessel at the quarantine anchorage, there to await the further directions of the health officer.

Duty of
pilots in
charge of
vessels.

§ 10. It shall be the duty of every pilot, who shall conduct into port a vessel subject to quarantine or examination by the health officer:

1. To bring such vessel to anchor within the buoys marking the quarantine anchorage.

2. To prevent any vessel or boat from coming along side of the vessel under his charge, and to prevent anything on board from being thrown into any other vessel or boat.

3. To present to the master of the vessel a printed copy of this title, when such copy shall have been delivered to him for that purpose.

4. To take care that no violations of this title be committed by any person, and to report such as shall be committed as soon as may be to the health officer.

Health
officer to
board every
vessel.

§ 11. It shall be the duty of the health officer to board every vessel subject to quarantine or visitation by him, immediately on her arrival, between sunrise and sunset; to enquire as to the health of all persons on board, and the condition of the vessel and cargo, by inspection of the bill of health, manifest, log-book, or otherwise; to examine on oath as many and such persons on board as he may judge expedient, to enable him to determine the period of quarantine and the regulations to which such vessel shall be made subject, and to report the facts and his conclusions, and especially to report the number of persons sick, and the nature of the disease with which they are afflicted, to the mayor or commissioners of health in writing.

Residence
of health
officer.

To remove
dangerous
vessels.

§ 12. It shall be the duty of the health officer to reside within the quarantine enclosure, and he shall have power:

1. To remove from the quarantine anchorage ground, any vessel he may deem dangerous to the public health, to any place south of the quarantine buoys and inside of Sandy Hook.

Cargo and
passengers
to be landed

2. To cause any vessel under quarantine, when he shall judge it necessary for the purification of the vessel or her cargo, passengers, or crew, or either of them, to discharge or

land the same at the quarantine ground or some other place out of the city.

3. To cause any such vessel or her cargo, bedding, and the clothing of persons on board, to be ventilated, cleansed and purified in such manner, and during such times as he shall direct; and if he shall judge it necessary to prevent infection or contagion, to destroy any portion of such bedding or clothing, and, with the authority of the mayor or commissioners of health, any portion of such cargo which he may deem incapable of purification.

Ventilation
and cleaning
of vessel

Cargo, &c.
may be
destroyed.

4. To prohibit and prevent all persons arriving in vessels subject to quarantine, from leaving quarantine, or removing their goods or baggage therefrom, until fifteen days after the last case of pestilential, contagious or infectious disease shall have occurred on board, and ten days after her arrival at quarantine, unless sooner discharged by him, with the consent of the mayor or the commissioners of health.

Persons,
&c. not to
leave quar-
antine until
after 15
days.

5. To permit the cargo of any vessel under quarantine, or any portion thereof, when he shall judge the same free from infection and contagion to be conveyed to the city of New York or elsewhere; such permission, however, to be inoperative without the written approval of the mayor or commissioners of health.

Permit to
proceed to
New York.

6. To cause all persons under quarantine to be vaccinated, when he deems it necessary for the preservation of the public health.

Vaccina-
tion.

7. To administer oaths and take affidavits in all examinations prescribed by this act, and in relation to any alleged violation of quarantine law or regulation; such oaths to have the like validity and effect as oaths administered by a commissioner of deeds.

To admin-
ister oaths.

§ 13. The health officer or the physicians of the Marine Hospital may direct in writing, any constable or other citizen, to pursue and apprehend any person, not discharged, who shall elope from quarantine, or who shall violate any quarantine law or regulation, or who shall obstruct the health officer or the physician of the Marine hospital in the performance of their duty, and to deliver him to said officer or officers, to be detained at quarantine until discharged by said officer or officers: but such confinement shall in no case exceed ten days. It shall be the duty of the constable or other citizen so directed, to obey such directions; and every such person so eloping or violating quarantine laws and regulations, or obstructing the health officer, shall be considered guilty of a misdemeanor, punishable with or by fine and imprisonment.

May arrest
persons
who elope
from quar-
antine.

§ 14. Every sick person sent to the Marine hospital by the health officer shall be there kept and attended to with all necessary and proper care, and no such person shall leave the hospital until the health officer shall grant a discharge in writing.

Care of the
sick.

PART I.
Commissioners of
emigration to take
charge of
indigent
emigrants.

§ 15. The commissioners of emigration shall remove from the Marine hospital, and take charge of all indigent emigrants whose quarantine has expired, and who shall have sufficiently recovered from the diseases with which they were admitted, on the notification in writing of the health officer, that such removal will not, with ordinary care, endanger the safety of the individual, or the health of the community.

May permit
cargo to be
shipped for
sea.

§ 16. The health officer, the board of health, or the mayor and commissioners of health may, if in their opinion it will not be dangerous to the public health, permit the cargo of any vessel under quarantine, or any portion thereof, to be shipped for exportation by sea, or transportation up the North or East river; and if the vessel receiving the same shall approach nearer than two hundred yards to the wharves of the city, said cargo may be seized and sold by the mayor and commissioners of health for the use and benefit of the Marine hospital.

Designation
by colors.

§ 17. Every vessel during her quarantine shall be designated by colors, to be fixed in a conspicuous part of her main shrouds.

§ 18. No vessel or boat shall pass through the range of vessels lying at quarantine or land at the quarantine grounds or wharves, without the permission of the health officer.

Lighters
not to be
employed
without
permission.

§ 19. No lighter shall be employed to load or unload vessels at quarantine without permission of the health officer, and subject to such restrictions and regulations as he shall impose.

Passengers
to be pro-
vided for by
master of
vessel.

§ 20. All passengers being on board of vessels under quarantine shall be provided for by the master of the vessel in which they shall have arrived; and if the master shall omit or refuse to provide for them, or they shall have been sent on shore by the health officer, they shall be maintained by the commissioners of emigration at the expense of such vessel her owners, consignees and each and every one of them; and the health officer shall not permit such vessel to leave quarantine until such expense shall have been repaid or secured; and the said commissioners shall have an action against such vessel, her owners and consignees, and each and every one of them, for such expenses, which shall be a lien on such vessel, and may be enforced as other liens on vessels are enforced by said commissioners.

Persons
charged
with offen-
ces may be
confined on
shores.

§ 21. The health officer, upon the application of the master of any vessel under quarantine, may confine in any suitable place on shore, any person on board of such vessel charged with having committed an offence punishable by the laws of this state or the United States, and who cannot be secured on board of such vessel; and such confinement may continue during the quarantine of such person, or until he shall be proceeded against in due course of law; and the expense thereof shall be charged and collected as in the last preceding section.

§ 22. Any person aggrieved by any decision, order or direction of the health officer, may appeal therefrom to the mayor and commissioners of health of the city of New York, who shall constitute a board of appeal; the said board shall have power to affirm, reverse or modify the decision, order or direction appealed from, and the decision of said board thereon shall be final.

CHAP. XIV.
Appeal to
the mayor
and com-
missioners
of health.

§ 23. An appeal to the board of appeal must be made by serving upon the health officer a written notice of such appeal, within twelve hours (Sundays excepted) after the appellant receives notice of the order, decision or direction complained of. Within twelve hours after the health officer receives such notice (Sundays excepted), he shall make a return in writing, including the facts on which his order, decision or direction was founded, to the mayor, who shall immediately call a meeting of the board of appeal, and shall be president of said board; and said appeal shall be heard and decided within twenty-four hours thereafter (Sundays excepted); and until such decision is made, the order, decision or direction complained of, except it refer to the detention of a vessel, her cargo or passengers, at quarantine, shall be suspended.

Appeal,
how made.

Return of
facts when
made.

Decision.

§ 24. The mayor of the city of New York may issue his proclamation, declaring any place where there shall be reason to believe a pestilential, contagious or infectious disease exists, or may exist, to be an infected place within the meaning of the health laws of this state.

Proclama-
tion by
mayor.

§ 25. Such proclamation shall fix the period when it shall cease to have effect; but such period, if they shall judge the public health to require it, may from time to time be extended by the board of health of said city; and notice of the same shall be published in five or more of the newspapers of the city.

Publication
of notice.

§ 26. After such proclamation shall have been issued, all vessels arriving in the port of New York from such infected place, shall be subject to the same quarantine laws and regulations as the vessels embraced in the first sub-division of the second section of this act, and shall, together with their officers, crews, passengers and cargoes, be subject to all the provisions, regulations and penalties of this act, in relation to vessels subject to quarantine; but such quarantine shall not extend beyond the period when such proclamation shall cease to have effect as provided by the last preceding section.

Vessels
arriving
after pro-
clamation
subject to
quarantine
laws.

§ 27. The board of health may, in their discretion, prohibit or regulate the internal intercourse, by land or water, between the city of New York, and such infected place; and may direct that all persons who shall come into the city of New York contrary to their prohibitions and regulations, shall be apprehended and conveyed to the vessel or place from whence they last came; or if sick, they shall be conveyed to the Marine hospital, or such other place as the board of health shall direct.

Board of
health to
regulate the
intercourse
with infected
places.

PART I.
Penalties
by masters
of vessels.

§ 28. Every master of a vessel subject to quarantine, or visitation by the health officer, arriving in the port of New York, who shall refuse or neglect either :

1. To proceed with and anchor his vessel at the place assigned for quarantine, at the time of his arrival;
2. To submit his vessel, cargo and passengers, to the examination of the health officer, and to furnish all necessary information to enable that officer to determine to what length of quarantine and other regulations they ought respectively to be subject ; or,
3. To remain with his vessel at quarantine during the period assigned for her quarantine, and while at quarantine to comply with the directions and regulations prescribed by law, and with such as any of the officers of health, by virtue of the authority given to them by law, shall prescribe in relation to his vessel, his cargo, himself, his passengers or crew, shall be guilty of a misdemeanor, and be punished by a fine not exceeding two thousand dollars, or by imprisonment not exceeding twelve months, or by both such fine and imprisonment.

Id.

§ 29. Every master of a vessel hailed by a pilot, who shall either :

1. Give false information to such pilot, relative to the condition of his vessel, crew or passengers, or the health of the place, or places from whence he came, or refuse to give such information as shall be lawfully required ;
2. Or land any person from his vessel, or permit any person, except a pilot, to come on board of his vessel, or unlade or tranship any portion of his cargo before his vessel shall have been visited and examined by the health officers ;
3. Or, shall approach with his vessel nearer the city of New York than the place of quarantine, to which he may be directed, shall be guilty of the like offence, and be subject to the like punishment : and any person who shall land from any vessel, or unlade or tranship any portion of her cargo, under like circumstances, shall be guilty of the like offence, and be subject to the like punishment.

By other persons.

§ 30. Any person who shall violate any provision of this act, or neglect or refuse to comply with the directions and regulations which any of the officers of health may prescribe, shall be guilty of the like offence, and be subject for each offence to the like punishment.

Fine or imprisonment.

§ 31. Every person who shall oppose or obstruct the health officer, in performing the duties required of him, shall be guilty of the like offence, and be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment.

Communication with vessel prohibited without permission of health officer.

§ 32. Every person who shall go on board of or have any communication, intercourse or dealing with any vessel at quarantine, or with any of her crew or passengers, without the permission of the health officer, or who shall, without such

authority, invade the quarantine grounds, or anchorage, shall be guilty of the like offence, and be subject to the like punishment; and such offender shall be detained at quarantine so long as the health officer shall direct, not exceeding twenty days. In case such person shall be taken sick of any infectious, contagious, or pestilential disease, during such twenty days, he shall be detained for such further time at the Marine hospital, as the health officer shall direct.

§ 33. Every person who shall violate the provisions of this act, by refusing or neglecting to obey or comply with any order, prohibition, or regulation made by the board of health, in the exercise of the powers herein conferred, shall be guilty of a misdemeanor, punishable by fine and imprisonment, in the discretion of the court by which the offender shall be tried. Penalty.

§ 34. The courts of general and special sessions of the peace of the city and county of New York, shall have exclusive jurisdiction of all offences against the provisions of this act; and it shall be the duty of the district attorney of the city and county of New York, to prosecute all persons guilty of such offences without delay. Jurisdiction of courts.

Of the Marine Hospital.

§ 35. The powers and duties of the "physician of marine hospital" shall be as follows:

1. To select and appoint, subject to the approval of the commissioners of emigration, such and so many assistant physicians, nurses, orderlies, and other employees of the "Marine hospital" as may be found necessary for the care and management of the said hospital, and the proper treatment of the inmates thereof, and to suspend or remove the same; but the rate of pay of said assistant physicians, nurses, orderlies and other employees, shall be regulated and determined by the commissioners of emigration. Powers and duties of physician of marine hospital.

2. To have the general charge and control of the "Marine hospital," and to make and enforce such rules and regulations for the government of the same, and the treatment of the sick inmates thereof as shall seem to him necessary and expedient, to maintain the said "Marine hospital" as a quarantine establishment;

3. To report to the health officer in writing, from time to time, and as often as may be, the persons sufficiently recovered from sickness to be discharged from said hospitals, or any of them;

4. To receive into the marine hospitals all cases of contagious, infectious or pestilential disease, which may be sent thither by the health officer, or under his authority, or under the authority of the board of health of the city of New York, except itch and syphilis, which shall not be construed as diseases entitling those suffering from them to be admitted as patients into the Marine hospital;

5. And to allow or permit the health officer at all times to

PART I.

have free access to the several wards of the Marine hospitals, for the purpose of examining the sick inmates thereof, in order to enable the said officer to judge as to the necessity for detaining the vessels from which said sick may have been landed.

[Section 36 amends section 5 of Laws of 1849, ch. 350.] Post, vol. 4, p. 315.

Repeal.

§ 37. Section six of article one of title two of chapter two hundred and seventy-five of the Laws of eighteen hundred and fifty, and sections fifteen and twenty-two of article three of title two of the same chapter of the Laws of eighteen hundred and fifty, and section thirty-five of article five of the same law, and section seventeen of chapter five of title five of part first of the Revised Statutes, together with all laws inconsistent therewith, are hereby repealed.

Ante, p. 389, 391, 394; vol. 1, p. 105.

CHAP. 412.

AN ACT to provide for more effectually guarding against the spread of pestilential diseases.

PASSED April 14, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Removal of vessels.

§ 1. The board of health, or the mayor and commissioners of health of the city of New York, or the board of health of Brooklyn, or the health officer of the port of New York, whenever in their or his judgment the public health shall require, may order any vessel at the wharves of the city, or in their vicinity, to the quarantine ground or some other place of safety, and may require all persons, articles or things introduced into the city from such vessel to be seized, returned on board thereof or removed to the quarantine or other place of safety. If the master, owner or consignee of the vessel cannot be found, or shall neglect or refuse to obey the order of removal, the said board of health or mayor and commissioners of health or health officer shall have power to employ such assistance as may be necessary to effect such removal, at the expense of such master, owner or consignee; and such vessel or person shall not return to the city without the written permission of the said board of health or mayor and commissioners of health or health officer. Whenever any person shall have been employed as above provided to remove any vessel or to remove any article or thing introduced into the city from such vessel, and shall in pursuance of such employment effect such removal, he shall have a lien on said vessel, her tackle, apparel and furniture, for his services and expenses in effecting such removal.

Lien.

§ 2. Whenever the said health officer in the performance of the duties and in the execution of the powers imposed and conferred upon him by law, or by any regulation or ordinance

made in pursuance of any statute of this state, shall order or direct the master, owner or consignee of any vessel under quarantine to remove such vessel from her anchorage, or to do any act or thing, or comply with any regulation relative to said vessel, or to any person or thing on board thereof, or which shall have been brought to said port therein, and said master, owner or consignee shall neglect or refuse to comply with such order or direction, the said health officer shall have power to employ such persons and assistance as may be necessary to carry out and enforce such order or direction, and the persons so employed shall have a lien on such vessel, her tackle, apparel and furniture for their services and expenses.

§ 3. The liens specified in the preceding sections may be enforced in the same manner as other liens on vessels are enforced, by warrant of attachment, in the mode prescribed in title eight of chapter eight of the third part of the Revised Statutes, all the provisions of which title shall apply to the services and expenses specified in this act; and the person or persons so rendering such services and incurring such expenses shall be deemed creditors of such vessel, and of her master, owner or consignee respectively; or such person or persons may have and maintain an action against the master, owner, or consignee, or either of them of such vessel, to recover the value of such services and expenses.

Liens how
enforced.

§ 4. Every person who shall oppose or obstruct the said health officer in performing the duties required of him by law, and every person who shall go on board of or have any communication, intercourse or dealing with any vessel under quarantine, or with any of her crew or passengers, without the permission of the health officer, or who shall without such permission invade the quarantine grounds or anchorage, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred nor more than five hundred dollars, or by imprisonment not less than three nor more than six months in the penitentiary.

Penalty.

§ 5. Exclusive jurisdiction of the offences specified in the preceding fourth section is hereby given to the courts of general and special sessions of the peace of the city of New York; and it shall be the duty of the district attorney of the city and county of New York to prosecute all persons guilty of such offences in preference to any indictment then in his office; and it shall be the duty of either of the said courts to hear and try the offences against this act in preference to all other cases pending before it; and whenever any person shall be convicted on a trial for such offence, the court shall forthwith proceed to pronounce judgment upon him, according to the terms prescribed in this act.

Jurisdic-
tion.

§ 6. Such provisions of existing laws as are inconsistent herewith, are hereby repealed; but such repeal shall not be construed to revive any act or part of an act repealed by the laws hereby repealed.

Repeal.

CHAP. 438.

AN ACT to encourage and provide for a general vaccination in this state.

PASSED April 16, 1860; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Children not having been vaccinated "may be excluded from common schools.

§ 1. The trustees of the several common school districts in this state, and the proper local boards of common school government in the several cities of the state, are hereby directed and empowered, under the provisions hereinafter set forth, to exclude from the benefits of the common schools therein any child or any person who has not been vaccinated, and until such time when said child or person shall become vaccinated.

Trustees may adopt resolution to carry out provisions of first section.

§ 2. The said trustees or local board may adopt a resolution to carry into effect the power conferred by the first section hereof; and whenever they shall do so they shall thereupon give at least ten days' notice thereof, by posting the same in two or more public or conspicuous places within the limits of their school government, and shall, in said notice, advertise due provision for the vaccination of any child or person of suitable age, who may desire to attend the common school, and whose parents or guardians are unable to procure vaccination for them or for the children of suitable age of such parents, as by reason of poverty may be exempted from taxation in such school districts.

Trustees may appoint physicians to vaccinate children.

§ 3. The said trustees or board may, in their or its discretion, appoint some competent physician and fix the compensation for his services, the duty of which physician shall be to ascertain the number of children or persons in the school district or subdivision of city school government, being of an age suitable to attend the common school, who have not been already vaccinated, and also to furnish to the said trustees or said board a list of the names of all such children or persons. It shall also be the duty of said physician to provide himself with good and reliable vaccine virus wherewith to vaccinate such of the number of children or persons aforesaid as have not been vaccinated according as the trustees or board shall direct, and to thereupon give certificates of vaccination when required, which certificates shall be evidence thereof, for the purposes of a compliance with section first hereof.

Expenses to be included in annual tax.

§ 4. The necessary expenses incurred by the provisions of this act shall be included and collected in the annual tax bill of the district, town, village or city, as may be proper, according to law.

§ 5. The trustees of the several school districts of this state are hereby required, to include in their annual report, the number in their several districts between the ages of five and twenty-one years, who are vaccinated and the number unvaccinated.

CHAP. XIV
Reports of
trustees.

CHAP. 442.

AN ACT to regulate the sale of poisons.

PASSED April 16, 1860; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. No person shall sell or give any poison or poisonous substance without recording in a book, to be kept for that purpose, the name of the person receiving said poison, and his or her residence, excepting upon the written order or prescription of some regularly authorized practicing physician, whose name must be attached to such order. Such book shall be kept open for inspection.

Book to be kept.

Name of purchaser in a book.

Thus amended by Laws of 1862, ch. 273.

§ 2. No person shall sell, give or dispose of any poison or poisonous substance except upon the order or prescription of a regularly authorized practicing physician, without attaching to the vial, box or parcel containing such poisonous substance, a label with the name and residence of such person, and the word "poison," all printed upon it with red ink, together with the name of such poison written or printed thereupon in plain and legible characters.

Poison to be labeled.

[Section 3 repealed by Laws of 1862, ch. 273.]

§ 4. Any person infringing any of the provisions of this act shall, upon conviction, be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding fifty dollars.

Persons infringing upon provisions of this act to be deemed guilty of a misdemeanor.

§ 5. This act shall only apply to incorporated cities and villages having a population of one thousand inhabitants and upwards in this state.

CHAP. 467.

AN ACT to prevent the adulteration of milk, and prevent the traffic in impure and unwholesome milk.

PASSED April 23, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any person or persons who shall knowingly sell or exchange, or expose for sale or exchange, any impure, adulterated or unwholesome milk, shall be deemed guilty of a mis-

Punishment for selling, &c., impure milk.

PART I.

demeanor, and conviction shall be punished by a fine of not less than fifty dollars for each and every offence, and if the fine is not paid, shall be imprisoned for not less than thirty days in the penitentiary or county jail, or until said fine shall be paid. As amended by Laws of 1864, ch. 544. Post, vol. 6, p. 302.

Punishment
for adulter-
ating milk.

§ 2. Any person who shall adulterate milk with the view of offering the same for sale or exchange, or shall keep cows for the production of milk for market, or for sale or exchange, in a crowded and unhealthy condition, or feed the same on food that produces impure, diseased or unwholesome milk, shall be deemed guilty of a misdemeanor, and on conviction shall be punished by a fine of not less than fifty dollars, and if the fine is not paid, shall be imprisoned for not less than thirty days in the penitentiary or county jail, or until said fine and cost of suit shall be paid.

Cans, car-
riage, &c.,
to be
marked.

§ 3. Any person or persons who shall engage in or carry on the sale, exchange, or any traffic in milk, shall have the cans in which the milk is exposed for sale or exchange, and the carriage or vehicle from which the same is vended, conspicuously marked with his, her or their names, also indicating by said mark the locality from whence said milk is obtained or produced, and for every neglect of such marking, the person or persons so neglecting shall be subject to the penalties expressed in the foregoing section of this act. But for every violation of this act, by so marking said cans, carriage or vehicle as to convey the idea that said milk is produced from a different locality than it really is, the person or persons so offending shall be subject to a fine of one hundred dollars or imprisonment in the penitentiary or county jail, or both, in the discretion of the court.

See Laws of 1864, ch. 518. Post, vol. 6, p. 300, and ch. 544. Post, vol. 6, p. 301.

CHAPTER XV.

Public Instruction.

CHAP. 59.

AN ACT relative to the University.

PASSED April 5, 1813.

Colleges,
how to be
founded and
organized.

§ 6. *And be it further enacted*, That any citizen or citizens, or bodies corporate within this State, being disposed to found a college at any place within the same, he or they shall, in writing, make known to the regents the place where, the plan on which, and the funds with which, it is intended to found and provide for the same, and who are proposed for the first trustees; and in case the regents shall approve thereof, then they shall declare their approbation by an instrument under their common seal, and allow a convenient time for completing the same; and if, at the expiration of the said time, it shall appear to the satisfaction of the regents, that

the said plan and propositions are fully executed, then they shall, by act under their common seal, declare that the said college, to be named as the founders shall signify, and with such trustees not exceeding twenty-four, nor less than ten, as they shall name, shall forthwith become incorporated, and shall have perpetual succession, and enjoy all the corporate rights and privileges enjoyed by Columbia college, in and by the act entitled "An act to institute an university within this State, and for other purposes therein mentioned," passed April 13, 1787. Post, p. 428.

§ 8. *And be it further enacted*, That the charter granted to the college of physicians and surgeons in the city of New York, by the regents of the university, bearing date the fourth day of June, one thousand eight hundred and twelve, be and the same is hereby ratified and confirmed, any grant or charter heretofore made by the said regents to the said college to the contrary notwithstanding: *Provided always*, That the amount of the property which the said college shall or may be authorized to hold, shall never exceed in value one hundred and fifty thousand dollars, current money of New York; and that the said regents reserve to themselves the right of conferring degrees, and appointing the professors or teachers of the several branches of the medical science in the said college, and of filling all such vacancies as shall or may arise among the trustees or members thereof: *And provided, also*, That any of the trustees of the said college shall, in the discretion of the regents of the university, be appointed professors and teachers in the said college, any law to the contrary notwithstanding.

College of
physicians
and sur-
geons.

§ 9. *And be it further enacted*, That it shall be lawful for the said regents, at any time or times hereafter, to alter and amend the said charter, provided such alterations or amendments be not repugnant to the constitution or laws of this State, or inconsistent with vested interests.

Charter
may be
amended.

§ 15. *And be it further enacted*, That when any scholar who shall be educated at any of the said academies, on due examination, by the president and professors of any college subject to the visitation of the said regents, shall be found competent, in the judgment of the said president and professors, to enter into the sophomore, junior or senior classes of such colleges, respectively, such scholar shall be entitled to an admission into such of the said classes, for which he shall be so adjudged competent, and shall be admitted accordingly at any one of the quarterly examinations of such respective classes.

Scholars to
be admitted
to colleges.

§ 16. *Provided always, and be it further enacted*, That to entitle the scholars of any such academy to the privileges aforesaid, the trustees thereof shall lay before the regents of the said university, from time to time, the plan or system proposed to be adopted for the education of the students in each of the said academies respectively, in order that the same may be revised and examined by the said regents, and

On condi-
tion.

PART I

Academies
when made
colleges.

by them be altered or amended, or approved and confirmed, as they shall judge proper.

§ 17. *And be it further enacted*, That whenever it shall appear to the said regents that the state of literature in any academy is so far advanced, and the funds will admit thereof, that it may be expedient that a president be appointed for such academy, the said regents shall in such case signify their approbation thereof, under their common seal; which being entered of record as aforesaid, shall authorise the trustees of such academy to elect a president, who shall have, hold and enjoy all the powers that the president of any college recognized by this act, shall or may lawfully have, hold and enjoy; and such academy thereafter, instead of being called an academy, shall be called and known by the same name it was called while it was an academy, except that the word college shall be used in all cases, instead of the word academy, and be subject to the like rules, regulations, control and visitation of the regents, as other colleges mentioned in this act.

CHAP. 82.

AN ACT relating to the different colleges within this State.

PASSED April 9, 1813.

Columbia
college.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly*, That the present trustees of Columbia college, and their successors, shall be and remain forever hereafter, a body politic and corporate, in fact and in name, by the name of "The trustees of Columbia college in the city of New York," and by that name shall and may have continual succession forever hereafter, and shall be able in law to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended in all courts and places whatsoever, and may have a common seal, and may change and alter the same at their pleasure; and also shall be able in law to take by purchase, gift, grant, devise or in any other manner, and to hold any real or personal estate whatsoever: provided always the clear yearly value of the real estate to be so acquired, shall not exceed the sum of twenty thousand dollars, and also that they and their successors shall have power to give, grant, bargain, sell, demise or otherwise dispose of, all or any part of the said real and personal estate as to them shall seem best for the interest of the said college.

Power of
trustees.

§ 2. *And be it further enacted*, That the said trustees and their successors shall forever hereafter have full power and authority to direct and prescribe the course of study, and the discipline to be observed in the said college; and also to select and appoint by ballot or otherwise a president of the

said college, who shall hold his office during good behavior, and such professor or professors, tutor or tutors, to assist the president in the government and education of the students belonging to the said college, and such other officer or officers as to the said trustees shall seem meet, all of whom shall hold their offices during the pleasure of the trustees: provided always that no such professor, tutor or other assistant officer shall be a trustee, but this proviso shall not extend to the provost of the said college, for the time being, who is hereby declared eligible as a trustee of said college.

§ 3. *And be it further enacted*, That if complaint shall be made in writing, to the said trustees or their successors, by any member of the said corporation, of any misbehavior in office by the president, it shall be lawful for the said trustees or their successors from time to time, upon examination and such due proof of misbehavior, to suspend or discharge such president, and to appoint another in his place.

May remove president.

§ 4. *And be it further enacted*, That eleven of the said trustees lawfully convened as is hereinafter directed, shall be a quorum for the despatch of all business, except for the disposal of real estate, or for the choice or removal of a president, for either of which purposes there shall be a meeting of at least thirteen trustees.

Quorum of trustees.

§ 5. *And be it further enacted*, That the said trustees shall have full power and authority to elect, by ballot, their own chairman, once in every year, or at such other periods as they shall prefer.

Chairman.

§ 6. *And be it further enacted*, That the said trustees shall also have power, by a majority of the votes of the members present, to elect and appoint, upon the death, removal out of the state, or other vacancy of the place or places of any trustee or trustees, other or others in his or their places or stead, as often as such vacancy shall happen; and also to make and declare vacant the seat of any trustee who shall absent himself from five successive meetings of the board, and also to meet upon their own adjournment, and so often as they shall be summoned by their chairman, or in his absence, by the senior trustee, whose seniority shall be accounted according to the order in which the said trustees are named in this act, and shall be elected hereafter: provided always that the said chairman or senior trustee shall not summon a meeting of the corporation, unless required thereto, in writing, by three of the members: *And provided also*, That he cause notice of the time and place of said meeting to be given, in one or more of the public newspapers printed in the city of New York, at least three days before such meeting; and that every member of the corporation, resident in the city, shall be previously advertised in writing, of the time and place of every such meeting.

Vacancies in trustees.

§ 7. *And be it further enacted*, That the said trustees and their successors shall have power and authority to grant all

Literary honors and degrees.

PART I.

such literary honors and degrees, as are usually granted by any university, college or seminary of learning, in this State or the United States; and in testimony of such grant, to give suitable diplomas, under their seal and the signatures of the president and such professors or tutors of the college as they shall judge expedient; which diplomas shall entitle the possessors respectively to all the immunities and privileges which, either by usage or statute, are allowed to possessors of similar diplomas, from any university, college or seminary of learning.

By-laws.

§ 8. *And be it further enacted*, That the said trustees and their successors shall have full power and authority to make all ordinances and by-laws which to them shall seem expedient, for carrying into effect the desigus of their institution: provided always that such ordinances or by-laws shall not make the religious tenets of any person a condition of admission to any privilege or office in the said college, nor be inconsistent with the constitution and laws of this State, nor with the constitution and laws of the United States.

Estate confirmed.

§ 9. *And be it further enacted*, That all the real and personal estate whatsoever and wheresoever, which was formerly vested in the governors of the college of the province of New York, in the city of New York, in America, or in the trustees of Columbia college, in the city of New York, be and the same is hereby confirmed to and vested in the said trustees of Columbia college, in the city of New York, and their successors forever, for the sole use and benefit of the said college; and that it shall and may be lawful to and for the said trustees and their successors, to grant, bargain, sell, demise, improve and dispose of the same, as to them shall seem meet: provided always that the lands given and granted to the governors of the college of the province of New York, in the city of New York, in America, by the corporation heretofore styled "The rector and inhabitants of the city of New York, in communion of the church of England, as by law established," on part whereof said college is erected, shall not be granted for any greater term of time than sixty-three years.

Union college. Purchase confirmed.

§ 10. *And be it further enacted*, That the agreement made between the trustees of Union college, in the city of Schenectady, and the mayor, aldermen and commonalty of the said city, relative to the purchase or exchange of certain real estate lying within the bounds of the said city, be and the same is hereby confirmed and declared valid in law, to every intent and purpose therein expressed and declared, any law to the contrary notwithstanding.

Funds for professorships.

§ 11. *And be it further enacted*, That the sum of thirty-five thousand dollars, heretofore paid to the trustees of the said college out of the avails of certain lotteries, shall be and remain at interest, payable annually, on approved landed security, or shall be invested in public stock, in such manner

as the trustees of said college, from time to time, by and with the consent, in writing, of the person administering the government of this State, or the chancellor thereof, shall direct and prescribe; and the annual income of such sum shall forever hereafter be solely and exclusively applied for the support of such professorships as are or may be instituted in the said college; and that it shall not be lawful for the said trustees or their successors, at any time hereafter, to lessen the said principal sum of thirty-five thousand dollars, or to appropriate the same, or any part thereof, to or for any use or purpose whatsoever; and the said trustees shall annually exhibit to the legislature a just, true and circumstantial account of their proceedings in relation to the disposition and application of the interest that shall accrue from the said principal sum of thirty-five thousand dollars, and how the said principal sum is invested, or to whom, and on what security, placed at interest.

§ 12. *And be it further enacted*, That thirty-five thousand dollars, also paid, or to be paid, to the trustees, out of the avails of certain lotteries, shall be applied towards the erection of such additional edifices for the accommodation of the students in the said college, as they shall deem proper; and ten thousand dollars, also paid, or to be paid, the said trustees, out of the avails of certain lotteries, shall be invested or put out at interest, in the manner declared in the preceding section, one-half of the income whereof to be laid out by the said trustees in establishing and maintaining forever a classical library, from which library all the students in the seminary shall be furnished with the books which they are required to study, subject to such regulations as the board of trustees shall prescribe, paying for the use of the same one dollar and fifty cents per quarter: *And further*, All indigent students who shall make it appear to the faculty of the college that they are embarrassed for the want of pecuniary resources, shall, during good behavior, be furnished, free of expense, with the books necessary for pursuing their education: *And further*, The remaining half of the income of the said ten thousand dollars shall forever be appropriated towards defraying the expenses of such indigent scholars as may be, from time to time, pursuing their education in said seminary.

§ 13. *And be it further enacted*, That the number of trustees of said college shall not exceed twenty-one in number, and of that number the chancellor, the justices of the supreme court, the secretary of State, the comptroller, the treasurer, the attorney-general and the surveyor-general for the time being, shall respectively be *ex officio* trustees of said college: *And further*, The regents of the university are authorized to fill all vacancies of the said trustees, from time to time to take place, but nothing herein contained shall prevent the present trustees from holding and enjoying their said trust.

§ 14. *And be it further enacted*, That the grants of funds

Funds for
buildings
and library.

Indigent
students.

Number of
trustees

Grants
confirmed.

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and land heretofore made to the said college by the people of this State, be and hereby are confirmed; but all former responsibilities and engagements of the said college to the people of this State, by reason of any monies borrowed or advanced, shall be and remain in like manner as if this act had not been passed.

Gaming
prohibited.

§ 15. *And be it further enacted*, That it shall not be lawful for any person to entice the students of the Union college, or of the grammar school belonging to the same, into the vice of gaming, by keeping within the first and second wards of the city of Schenectady, any billiard table or other instrument or device for the purpose of gaming, and that if any person shall keep any billiard-table or other instrument or device for gaming within the aforesaid first and second wards of the city of Schenectady, or shall entice or permit any student of Union college, or of the grammar school belonging to the same, to game or play at the said billiard table or other instrument or device aforesaid, or shall entice or permit them, or any of them, to enter the place where the same is kept, every person so offending shall forfeit the sum of twenty-five dollars for every such offence, to be recovered in an action of debt in any court having cognizance thereof, the one moiety to the use of the people of this State, and the other to the benefit of such person as shall prosecute therefore.

Sheriff's
duty at
commence-
ment.

§ 16. *And be it further enacted*, That it shall be the duty of the sheriff of the county, together with the constables of the said city of Schenectady, to attend the annual commencement and the public exhibitions of the said Union college, to preserve peace and good order, and prevent any unlawful assemblage and tumult about the same.

CHAP. 207.

AN ACT to amend the act, entitled "An act relative to the University."

PASSED April 17, 1815.

WHEREAS the regents of the university, in their report to the legislature, have suggested an amendment of the law in respect to their meetings, and the same appearing to be reasonable: Therefore,

Non-attend-
ance of
regents.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly*, That if any regent, (except such as reside in the city of New York,) shall not attend at least once at any of the meetings of the regents to be held during any session of the legislature, when by law they are required to meet, without some just cause satisfactory to the board of regents, such non-attendance shall be deemed a resignation of their seats, and it shall be the duty of the regents to report to the legislature, from time to time, the

names of the members whose seats shall thus become vacant, to the end that the same may be supplied. Post, p. 426.

CHAP. XV.

CHAP. 8.

AN ACT for the improvement of the Literature Fund.

PASSED January 25, 1832.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The regents of the university shall, within sixty days after the passage of this act, transfer to the comptroller all the stock, money, securities and property belonging to the literature fund in their possession, or under their control.

Regents to transfer stock, &c.

§ 2. The comptroller shall annually audit and settle the accounts for necessary incidental expenses of the said regents of the university.

Accounts to be audited.

§ 3. The regents of the university shall annually deliver to the comptroller a schedule of the distribution of the income of the said literature fund, designating the several institutions entitled to a participation, and the amount awarded to each which schedule shall be delivered immediately after each annual distribution, and shall be authenticated by the signature of the chancellor and secretary of the said regents of the university, and their corporate seal.

Schedule to be made yearly

§ 4. The comptroller shall draw his warrant on the treasurer in favor of each institution, for the sum so awarded to it, and shall direct the manner in which the same shall be receipted and drawn from the treasury.

Warrants on treasurer.

CHAP. 140.

AN ACT relating to the distribution and application of the revenues of the literature fund.

PASSED April 22, 1834.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. There shall be twelve thousand dollars of the revenues of the literature fund annually distributed by the regents of the university, to the academies and schools which now are or hereafter may be subject to the visitation of the regents, in the manner now provided by law; which moneys shall be exclusively appropriated and expended by the trustees of such academies and schools respectively, towards paying the salaries of tutors.

Sum to be distributed.

§ 2. Any portion of the excess of the literature fund over the sum of twelve thousand dollars, may, in the discretion of

Excess how disposed of.

PART I.

the regents, be assigned to any academy or school subject to their visitation, and subject to such rules and regulations as they may prescribe, for the purchase of text books, maps and globes, or philosophical or chemical apparatus; such sum shall not exceed two hundred and fifty dollars in any one year. But no part of the said excess shall be actually paid over, unless the trustees of the academy or school to which it is to be appropriated shall raise and apply an equal sum of money to the same object.

Repeal.

§ 3. The fifty-fourth section of chapter fifteen of title one of the first part of the Revised Statutes, is hereby repealed.

See Laws of 1863, ch. 48. Post, vol. 6, p. 57. Ante, vol. 1, p. 410.

CHAP. 241.

AN ACT concerning the Literature fund.

PASSED May 2, 1834.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Excess of the annual revenue.

§ 1. The revenue of the literature fund now in the treasury, and the excess of the annual revenue of said fund hereafter to be paid into the treasury, over the sum of twelve thousand dollars, or portions thereof, may be distributed by the regents of the university, if they shall deem it expedient, to the academies subject to their visitation, or a portion of them, to be expended as hereinafter mentioned.

Teachers of common schools.

§ 2. The trustees of academies to which any distribution of money shall be made by virtue of this act, shall cause the same to be expended in educating teachers of common schools in such manner and under such regulations as said regents shall prescribe.

CHAP. 123.

AN ACT relating to academies.

PASSED April 20, 1835.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Powers of trustees.

§ 1. Nothing in the fifty-sixth section of the first title of chapter fifteen, part first of the Revised Statutes, shall be construed to prevent article fourth of said title from extending and applying to the trustees of all academies incorporated by the regents of the university prior to the first day of January, one thousand eight hundred and thirty.

Ante, vol. 1, p. 410.

Resignation.

§ 2. If any trustee of an academy shall, for one year, refuse or neglect to attend the legal meetings of the board of trustees of which he is a member, such non-attendance shall be deemed a resignation of the office of such trustee.

§ 3. Where the number of trustees of any academy shall exceed twelve, and a vacancy shall happen in the office of any such trustees, and the vacancy shall not be filled by the election of another trustee within six months after the happening of such vacancy, the office of the trustee so becoming vacant shall be abolished.

CHAP. XV.
Office when
to be abol-
ished.

CHAP. 226.

AN ACT in relation to the powers of the regents of the university.

PASSED April 25, 1839.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The regents of the university of the state of New York, and any committee thereof, in the discharge of any duty required by law, or by resolution of the senate or assembly, may require any proof or information relating thereto, to be verified by oath, and shall for such purposes (and no other) have the powers now by law vested in any committee of either house authorized to send for persons and papers.

Regents
may send
for persons
and papers.

CHAP. 366.

AN ACT to authorize the Regents of the University, to confer the honorary degree of doctor of medicine.

PASSED May 14, 1840.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The Regents of the University, may in their discretion confer the honorary degree of doctor of medicine upon such persons, not to exceed four in any one year, as may be recommended to them for that purpose, by the medical society of this state, but such honorary degree shall in no case be a license to practise physic or surgery.

Regents to
confer
certain
degrees.

CHAP. 142.

AN ACT in relation to the Regents of the University.

PASSED April 8, 1842.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In addition to the number of the Regents of the University of the State of New York now prescribed by law,

Secretary
of state ex
office a
regent.

PART I.

the Secretary of the State of this state, for the time being, shall be a regent by virtue of his office.

CHAP. 179.

AN ACT to provide for the safe keeping of the Cabinets of Natural History, and for other purposes.

PASSED May 10, 1845.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Person to have charge of cabinets to be appointed.

§ 1. The regents of the university are hereby authorized and directed to make suitable provision for the safe keeping of the cabinets of natural history now deposited in the old State Hall, and to employ a person to take charge of the same, at an expense not to exceed the sum of two hundred and fifty dollars per annum, to be paid out of the treasury on the warrant of the comptroller.

Committee of agricultural society to have use of cabinet.

§ 2. The executive committee of the New York State Agricultural Society may have the free use of said cabinets of natural history, and all the specimens therein deposited, at any and all times, for such purpose as such committee shall desire, subject to the direction and regulations of the regents of the university: provided that such committee shall not remove said cabinets, or any of the specimens therein deposited, from the rooms in which they shall be deposited by the regents of the university.

Repeal of act exempting certain regents from attendance.

§ 3. So much of the act entitled "An act to amend the act entitled 'An act relative to the University,' passed April 17, 1815," as exempts the regents residing in the city of New York from attendance at the meetings of the regents to be held during the session of the legislature, is hereby repealed.

Ante, p. 422.

Act may be repealed.

§ 4. This act may be at any time hereafter altered, modified, or repealed by the legislature.

CHAP. 536.

AN ACT appropriating the revenues of the Literature and United States Deposit Funds.

PASSED July 11, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Academies.

§ 1. There shall be paid annually, by the treasurer, on the warrant of the comptroller, out of the revenues derived from the literature fund, to the several academies under the supervision of the regents of the university, the sum of twelve thousand dollars, and the further sum of twenty-eight thou-

sand dollars from the income of the United States deposit fund, being in all forty thousand dollars, according to an apportionment to be made by the regents among the said academies, in proportion to the number of pupils in each who shall have pursued the requisite studies to enable them to share in said distribution; there shall be paid to the Delaware academy in each of the years 1851 and 1852, the sum of two hundred and eighty-nine dollars and fifty cents, being the interest at six per cent, on four thousand eight hundred and twenty-five dollars of state stock held by the comptroller in trust for said academy, being part of an appropriation for said academy by chap. 170, of the laws of 1819.

Delaware
academy.

§ 2. There shall be paid annually, in the manner provided by chapter three hundred and eleven of the laws of one thousand eight hundred and forty-four, out of the income of the United States deposite fund, the sum of ten thousand dollars, for the support and maintenance of the State Normal school, and the sum of one hundred and fifty dollars is hereby appropriated to the State Normal school, for the purchase of instruments to be used in giving instruction in engineering and surveying.

State nor-
mal school.

§ 3. There shall be paid by the treasurer, on the warrant of the comptroller, out of the income of the literature fund, to the regents of the university, three thousand dollars annually, to be assigned by them to such academies, subject to their visitation, for the purchase of text books, maps and globes, or philosophical or chemical apparatus, as may apply for a part of the money for that purpose, on the terms prescribed in the second section of chapter one hundred and forty of the laws of one thousand eight hundred and thirty-four.

Text books
and appa-
ratus.

To the regents of the university, to be applied to defray the expense of continuing the meteorological observatories, as stated in the fifth section of chapter three hundred and one of the laws of one thousand eight hundred and forty-nine, the sum of one thousand five hundred dollars annually.

Meteorolo-
gy.

§ 4. The treasurer shall pay yearly, on the warrant of the comptroller, out of the income of the United States deposits or literature funds, not otherwise appropriated, to the trustees of one or more academies in each county of the state, as the regents of the university shall designate, the sum of ten dollars for each scholar who shall have been instructed in such academy during at least one-third of the academic year, in the science of common school teaching.

Treasurer
to pay to
trustees of
one or more
academies
\$10 for each
pupil.

As amended by Laws of 1852, ch. 235.

§ 5. The regents of the university shall have power, in their discretion, to certify to the comptroller, as entitled to receive appropriations under chapter one hundred and seventy-four of the laws of one thousand eight hundred and forty-nine, any academy or academies which shall have given instruction in the science of common school teaching during the year eighteen hundred and fifty, although such academy or acade-

Money
may be
paid to
certain
academies
not having
complied
strictly
with the
law.

PART I.

mies may not have strictly complied with the terms of said law; and the certificate of the regents shall be to the comptroller his sufficient warrant for the payment of moneys so certified to be due to any academy.

CHAP. 544.

AN ACT to incorporate Academies and High Schools in this State.

PASSED July 11, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Capital
stock.

§ 1. It shall be lawful for an academy or high school for literary, scientific, charitable or religious purposes, to issue, create and possess a capital stock not exceeding ten thousand dollars, which stock shall be deemed personal property and shall be issued in shares of not less than ten dollars each to the several persons subscribing for and paying in the same; and in the election of trustees of any such corporation, each stockholder shall be entitled to give one vote upon each share of stock actually owned by him at the time of such election.

When in-
corporated.

§ 2. Whenever any such corporation formed for the purpose of establishing an academy or high school shall have erected a building for school purposes of the value of two thousand dollars, and shall in all other respects comply with the conditions provided by law to authorise the regents to incorporate academies, said corporation shall be declared an academy by the regents of the University, and shall enjoy all the rights and privileges conferred by law on the academies of this State.

CHAP. 184.

AN ACT relative to the incorporation of Colleges and Academies.

PASSED April 12, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Rules for
incorpora-
ting, &c.

§ 1. The regents of the University shall by general rules and regulations to be established by them from time to time, prescribe the requisites and conditions for the incorporation by them of any college, university, academy or other institution of learning, pursuant to the power vested in the said regents by the act entitled "An act relative to the University," passed April 5, 1813, and by the revised statutes of this State; the said regents are hereby empowered at any time by an instrument under their common seal, which shall

be recorded in the office of the Secretary of State, to incorporate any university or college, or any academy, or other institution of learning, under such name, with such number of trustees or other managers, and with such powers and privileges and subject to such limitations and restrictions, in all respects as may be prescribed by law or as the said regents may deem proper in conformity thereto, and every institution so incorporated in addition to the powers which may be vested in them as aforesaid, shall have the general powers of a corporation under the revised statutes of this State.

Ante, p. 416.

§ 2. The said regents may at any time on sufficient cause shown and by an instrument under their common seal to be recorded as aforesaid, alter, amend or repeal the charter of any college, university, academy or other institution of learning which may hereafter be incorporated by them, and may, on the petition of any college, academy or other institution of learning in this State, now existing and subject, or which may hereafter become subject to their visitation, alter or modify the charter, and the rights, powers and privileges of such institution in such manner and on such terms and conditions as they may deem proper.

Charters may be amended and repealed.

§ 3. The trustees of any academy possessing a capital stock pursuant to the act, chapter five hundred and forty-four of the laws of eighteen hundred and fifty-one, may by their by-laws prescribe the mode and manner of electing trustees of the said academy, and may make all necessary rules and regulations relative to such election; and the said trustees may, if they so determine, be divided into three classes as nearly equal as may be, who shall serve respectively one, two and three years, such terms of service to be determined by drawing therefor under the direction of the said trustees; and the trustees thereafter elected shall serve three years. The trustees may fill all vacancies according to their number by death, resignation, removal from the State or otherwise; and any election of trustees by any academy under said law heretofore held, is hereby affirmed and made valid, provided, that this act shall not affect any action heretofore arising out of any such election.

Power of trustees.

§ 4. The capital stock of any such academy shall not exceed fifty thousand dollars.

Capital.

§ 5. Six members of the board of regents shall hereafter be necessary to form a quorum for the transaction of business.

Quorum.

§ 6. Any citizens not less than ten in number, of whom a majority shall be inhabitants of this State, who may desire to found or endow a medical or surgical college or school within this State, may make, sign and acknowledge before some officer authorised to take the acknowledgment of deeds, a certificate in writing, in which shall be stated the corporate name of the proposed institution, the names of the persons proposed for the first trustees, the plan on which, and the

Medical colleges.

PART I.

funds with which, it is intended to found and provide for said institution, and the name of the town or city in which it is proposed to locate the same; and shall file such certificate in the office of the Secretary of State, and transmit a duplicate thereof to the presiding officer of the regents of the University of the State of New York.

Capital for same.

§ 7. If it shall appear to the satisfaction of the regents of the University, that the sum of fifty thousand dollars has been subscribed in good faith for the endowment of such institution by the valid subscription of responsible parties, and at least two-thirds of that sum has been actually paid in or secured in such manner as the regents may approve, to be invested in buildings and site for college, museum, library, apparatus and other needful appurtenances of a medical college, or in bonds and mortgages on unincumbered real estate or stocks of the United States or of this State, they shall, by act under their seal, grant a charter pursuant to the provisions of this act, for the incorporation of such college, (naming therein as first trustees the persons specified in said certificate,) for a term of five years, with a condition or proviso therein that if within the said term of five years, the trustees of said college shall present to the regents satisfactory evidence that there has been paid in and invested as above prescribed, the whole of said sum of fifty thousand dollars, the charter thereof shall be made perpetual. Upon the fulfilment of said condition, or upon the payment in the first instance of the said sum of fifty thousand dollars, the said regents shall grant said college a perpetual charter.

Amount of estate.

§ 8. Such college may hold and possess real and personal property to the amount of two hundred thousand dollars, but the funds or property thereof shall not be used for any other purpose than for the legitimate business of such institution in the promotion of medical and surgical science and instruction in all departments of learning connected therewith.

Subject to Visitation.

§ 9. Such college shall be subject to the general provisions of the Revised Statutes, so far as the same are applicable, regulating the practice of physic and surgery within this State. It shall be subject to the visitation of the regents of the University, and shall make an annual report to them on oath, of the condition of said college and the various matters required by law to be reported by other colleges and academies, and of the investment of the funds of said college; and if at any time it shall appear that the sum required to be paid in has not been invested in the manner specified in the seventh section of this act, the regents of the university are hereby empowered to vacate and annul said charter.

And to Revised Statutes.

§ 10. Every institution incorporated under this act shall have and possess all the powers and privileges, and be subject to the provisions, liabilities and restrictions of the eighteenth chapter of the first part of the Revised Statutes, so far as the same are applicable and have not been repealed. The board

of trustees, which shall consist of not less than ten nor more than twenty-four persons, shall have power to make all needful by-laws and rules for the government and regulation of said college, the appointment of professors, instructors, and other officers thereof, the term of office and election of trustees, and so forth, not inconsistent with this act and the laws of this State. Such by-laws may be altered or amended by a vote of two-thirds of the members constituting said board, notice being given at a previous regular meeting of said board.

§ 11. The trustees for the time being of every college incorporated pursuant to this act, shall have power to grant and confer the degree of doctor of medicine upon the recommendation of the board of professors of said college and of at least three curators of the medical profession appointed by said trustees. But no person shall receive a diploma conferring such degree, unless he be of good moral character and of the age of twenty-one years, and shall have received a good English education, and shall have pursued the study of medicine and the sciences connected therewith for at least three years after the age of sixteen years, and have received instruction from some physician and surgeon fully qualified to practice his profession, until he is qualified to enter a medical college, and (except in cases hereafter provided,) shall also after that age have attended two complete courses of lectures delivered in some incorporated medical college.

May grant
degrees.

§ 12. The board of trustees of every such college shall, upon payment of matriculation and demonstrator's fees (which shall not exceed the sum of five dollars each) admit to its course of instruction, without further charge, any number of young persons of the State of New York, (not exceeding ten at any one time,) of good scholarship and moral character, who are in indigent circumstances; the evidence of qualification shall be a certificate from the judge of the county in which the applicant resides.

Indigent
students.

§ 13. This act shall take effect immediately, and all statutes and acts of the legislature inconsistent with the provisions of this act, are hereby repealed.

Repeal.

CHAP. 50.

AN ACT to amend the Revised Statutes, relative to the time of sending in the annual reports of academies subject to the visitation of the regents.

PASSED March 9, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Every academy or institution of learning, subject to the visitation of the regents, is hereby required, as early as

End of
academic
year.

PART I.

at the end of six months, shall be placed in the custody of the regents of the university, subject to future distribution by the Legislature; the proceeds of any such sales made by the said regents, after deducting their necessary expenses under this act, shall be paid into the state treasury. Persons who may have already subscribed for or purchased said documents, or such of them as may have been published, shall be credited with the amount they may have paid, and be allowed to complete their sets at the price fixed by the regents as aforesaid.

CHAP. 527.

AN ACT in relation to dividends to stockholders of Academies and other institutions of learning, and the distribution of the public funds to the same.

PASSED April 15, 1857; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Apportionment of income.

§ 1. That portion of the income of the literature fund and of the United States deposit fund apportioned to academies and other institutions of learning under the visitation of the regents of the university, shall hereafter be apportioned and paid only to such as shall in good faith devote the entire income and earnings thereof, from whatever source the same may be derived, to the sole and proper use of such academy or institution.

Dividends to stockholders.

§ 2. No academy or institution of learning which shall hereafter pay to its stockholders, shareholders or other persons claiming rights of ownership therein any dividend, or any portion of its earnings or other income, from whatever source derived, shall be entitled to receive any share in the distribution of funds appropriated to academies. See p. 435.

Power of regents.

§ 3. The regents of the university shall make and establish such rules and regulations as they may deem necessary to carry into effect the provisions of this act, and they shall have full power to examine by themselves, or their secretary, into the manner in which all institutions of learning subject to their visitation are conducted, to the end that they may report the same to the legislature.

Ib.

§ 4. The regents of the university are hereby authorised and empowered to give such relief to academies in relation to the distribution of public funds as has hitherto been rendered by the legislature, whenever in their judgment such relief is equitable and just, or rendered necessary by error in their reports or by error in distribution of said funds.

§ 5. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 426.

AN ACT to amend an act entitled "An act in relation to dividends to stockholders of academies and other institutions of learning, and the distribution of the public funds to the same," passed April fifteenth, eighteen hundred and fifty-seven.

PASSED April 16, 1859.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The act entitled "An act in relation to dividends to stockholders of academies and other institutions of learning, and the distribution of the public funds to the same," passed April fifteenth, eighteen hundred and fifty-seven, is hereby amended by striking out sections one and two and substituting in lieu thereof the following words: "No academy or institution of learning shall hereafter pay to its stockholders, shareholders, or other persons claiming rights of ownership therein, any dividends, or any portion of its earnings or other income, from whatever source derived, while there is any outstanding indebtedness against the said academy or institution. All moneys received by any academy or other institution in the annual distribution of the literature and United States deposit funds, shall be applied exclusively, by the trustees of such academy or institution, towards paying the salaries of teachers, and shall not, in any case, make a part of any dividend to stockholders, shareholders, or other persons claiming rights of ownership therein." Ante, p. 434.

Act amended.

No dividends to be paid while there is any outstanding indebtedness.

CHAP. 44.

AN ACT concerning District School-Houses.

PASSED February 17, 1831.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever a school-house shall have been built or purchased for a district, the site of such school-house shall not be changed, nor the building thereon be removed, as long as the district shall remain unaltered, unless by the consent, in writing, of the commissioners of common schools, or a majority of them, of the town or towns within which such district shall be situated, stating that in their opinion such removal is necessary; nor then, unless two-thirds of all those present at a special meeting of such district, called for that purpose, and qualified to vote therein, shall vote for such removal and in favor of such new site.

Site of school house.

PART I.

at the end of six months, shall be placed in the custody of the regents of the university, subject to future distribution by the Legislature; the proceeds of any such sales made by the said regents, after deducting their necessary expenses under this act, shall be paid into the state treasury. Persons who may have already subscribed for or purchased said documents, or such of them as may have been published, shall be credited with the amount they may have paid, and be allowed to complete their sets at the price fixed by the regents as aforesaid.

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Dividends
to stock-
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§ 2. No academy or institution of learning which shall hereafter pay to its stockholders, shareholders or other persons claiming rights of ownership therein any dividend, or any portion of its earnings or other income, from whatever source derived, shall be entitled to receive any share in the distribution of funds appropriated to academies. See p. 435.

Power of
regents.

§ 3. The regents of the university shall make and establish such rules and regulations as they may deem necessary to carry into effect the provisions of this act, and they shall have full power to examine by themselves, or their secretary, into the manner in which all institutions of learning subject to their visitation are conducted, to the end that they may report the same to the legislature.

Id.

§ 4. The regents of the university are hereby authorised and empowered to give such relief to academies in relation to the distribution of public funds as has hitherto been rendered by the legislature, whenever in their judgment such relief is equitable and just, or rendered necessary by error in their reports or by error in distribution of said funds.

§ 5. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

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Site of school house.

PART I.
Votes.

§ 2. Such vote shall be taken by ayes and noes, and the name of each voter with the vote that he shall give, shall be entered by the clerk in the records of such school district.

3 D., 114.

Notice.

§ 3. Every notice of a district meeting called in pursuance of this act, shall state the purpose for which such meeting is called.

3 D., 114.

**Sale of
school lot
and build-
ings.**

§ 4. Whenever the site of a school-house shall have been changed as herein provided, the inhabitants of the district entitled to vote, lawfully assembled at any district meeting, shall have power, by a majority of the votes of those present, to direct the sale of the former site or lot, and the buildings thereon, and appurtenances, or any part thereof, at such price and upon such terms as they shall deem most advantageous to the district; and any deed duly executed by the trustees of such district, or a majority of them, in pursuance of such direction shall be valid and effectual to pass all the estate or interest of such school district, in the premises intended to be conveyed thereby, to the grantee named in such deed; and when a credit shall be directed to be given upon such sale, for the consideration money, or any part thereof, the trustees are hereby authorised to take, in their corporate name, such security by bond and mortgage, or otherwise, for the payment thereof, as they shall deem best, and shall hold the same as a corporation, and account therefor to their successors in office and to the district, in the manner they are now required by law to account for moneys received by them; and the trustees of any such district for the time being, may, in their name of office, sue for and recover the moneys due and unpaid upon any security so taken by them to their predecessors in office, with interests and costs.

**Avails how
to be ap-
plied.**

§ 5. All moneys arising from any sale made in pursuance of the last preceding section, shall be appropriated to the payment of the expenses incurred in procuring a new site and in removing or erecting a school-house, or either of them, so far as such application thereof shall be necessary.

Repeal.

§ 6. The sixty-sixth section of title two, chapter fifteen of the first part of the Revised Statutes is hereby repealed.

Ante, vol. 1, p. 428.

CHAP. 206.

AN ACT to amend the Revised Statutes relating to Common Schools.

PASSED April 21, 1831.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

**Revised
Statutes
extended.**

§ 1. The provisions of the twenty-sixth section of article third, title second of chapter fifteen of the first part of the

Revised Statutes are hereby extended to all cases where a school district shall have been formed at such time previous to the first day of January, as not to have allowed a reasonable time to have kept a school therein for the term of three months, such district having been formed out of a district or districts in which a school shall have been kept for three months, by a teacher duly qualified, during the year preceding the first of January. Ante, vol. 1, p. 421.

§ 2. The warrant annexed to any tax list for the collection of a district tax for erecting or repairing any school-house shall command the collector, in case any person named in such list shall not pay the sum therein set opposite to his name on demand, to levy the same of his goods and chattels in the same manner as on warrants issued by the board of supervisors to the collectors of towns; and such part of the eighty-eighth section of article five of the aforesaid title as is repugnant thereto is hereby repealed.

Warrant
for tax.

13 W., 629; 16 W., 608.

CHAP. 317.

AN ACT to amend the Act relating to Common Schools.

PASSED April 26, 1832.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All taxes directed to be raised by the act hereby amended, shall be collected in the manner prescribed in the second section of the act entitled "An act to amend the Revised Statutes relating to common schools," passed April 21st, 1831.

Tax how
collected.

16 W., 608.

§ 2. So much of the eighty-eighth section of the Revised Statutes relating to common schools as directs the manner of enforcing the collection of a school tax, is hereby abolished.

CHAP. 34.

AN ACT relating to public instruction.

PASSED March 14, 1835.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The superintendent of common schools shall procure and furnish to each of the school districts in this state, two copies of the report of a committee of the regents of the university, on the education of common school teachers, presented to the regents on the eighth day of January last for the use of said districts.

Report to
be furnish-
ed.

PART I.
Expense.

**Quorum of
trustees.**

§ 2. The expense of procuring and furnishing said report, shall be defrayed in the usual way of defraying like expenses.

§ 3. Seven trustees of any academy shall be a quorum for the transaction of business, and so much of the forty-first section of the first title of chapter fifteen of the first part of the Revised Statutes, as requires a majority of the whole number of trustees for a quorum for the transaction of business, is hereby repealed.

CHAP. 80.

AN ACT relating to public instruction.

PASSED April 13, 1835.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

**School
district
library.**

§ 1. The taxable inhabitants of each school district in the state, shall have power, when lawfully assembled at any district meeting, to lay a tax on the district, not exceeding twenty dollars for the first year, for the purchase of a district library, consisting of such books as they shall in their district meeting direct, and such further sum as they may deem necessary for the purchase of a book case. The intention to propose such tax, shall be stated in the notice required to be given for such meeting.

**Additions
to the same.**

§ 2. The taxable inhabitants of each school district shall also have power, when so assembled in any subsequent year, to lay a tax not exceeding ten dollars in any one year, for the purpose of making additions to the district library.

Librarian.

§ 3. The clerk of the district, or such other person as the taxable inhabitants may at their annual meeting designate and appoint by a majority of votes, shall be the librarian of the district, and shall have the care and custody of the library, under such regulations as the inhabitants may adopt for his government.

Taxes.

§ 4. The taxes authorized by this act to be raised, shall be assessed and collected in the same manner as a tax for building a school house.

CHAP. 241.

AN ACT concerning common schools.

PASSED April 22, 1837.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

**Trustees
how to
report.**

§ 1. It shall be the duty of trustees of school districts to state in their annual reports, the amount of money paid for

teachers' wages in addition to the public money paid therefor, and such other information in relation to the schools and the districts as the superintendent of common schools may from time to time require.

§ 2. It shall be the duty of the commissioners of common schools to state in their annual reports, the amount of money paid for teachers' wages, in addition to the public money paid therefor, in the districts, parts of districts and neighborhoods from which reports shall have been received by them or their immediate predecessors in office, with such other information as the superintendent of common schools may from time to time require, in relation to the districts and schools within their town.

Commissioners how to report.

§ 3. Commissioners who neglect to furnish the information required by the last preceding section, shall severally forfeit to their town, for the use of the common schools therein, the sum of ten dollars, to be sued for by the supervisor of the town.

Penalty for neglect.

§ 4. The institutions in which departments for the instruction of common school teachers are or shall be established, shall make to the superintendent of common schools an annual report of the condition of those departments, in such form and containing such information as he may from time to time require; and in respect to the organization and management of the departments and the course of studies therein, the said institutions shall be governed by such direction as he may prescribe: and he may direct the said forms and direction to be printed by the state printer.

Certain academies to report about common school teachers.

§ 5. Commissioners of common schools shall be entitled to receive one dollar per day for every day actually and necessarily devoted by them in their official capacity, to the service of the town for which they may be chosen, the same to be paid in like manner as other town officers are paid.

Pay of commissioners.

§ 6. The inhabitants of school districts shall have power, whenever they shall be lawfully assembled at any district meeting, to vote a tax for the purchase of a book for the purpose of recording the proceedings of their respective districts.

Book of minutes may be purchased.

CHAP. 177.

AN ACT respecting school district libraries.

PASSED April 15, 1839.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The trustees of every school district shall be trustees of the library of such district; and the property of all books therein, and of the case and other appurtenances thereof, shall be deemed to be vested in such trustees, so as to enable them to maintain any action in relation to the same. It shall

Who to be trustees of libraries.

PART I.
Expenses
how de-
frayed.

Libraries.

be their duty to preserve such books and keep them in repair; and the expenses incurred for that purpose, may be included in any tax list to be made out by them as trustees of a district, and added to any tax voted by a district meeting, and shall be collected and paid over in the same manner. The librarian of any district library shall be subject to the directions of the trustees thereof, in all matters relating to the preservation of the books and appurtenances of the library, and may be removed from office by them for wilful disobedience of such directions, or for any wilful neglect of duty; and whenever they shall have reason to apprehend the loss of any such books, or their injury, or destruction by his misconduct; and whenever a vacancy shall exist in the office of librarian, the same shall be supplied by the trustees until the next annual meeting of the inhabitants of the district.

Liability
of trustees.

§ 2. Trustees of school districts shall be liable to their successors for any neglect or omission, in relation to the care and superintendence of district or joint libraries, by which any books therein are lost or injured, to the full amount of such loss or injury in an action on the case, to be brought by such successors in their name of office.

Regula-
tions by
superin-
tendent.

§ 3. A set of general regulations respecting the preservation of school district libraries, the delivery of them by librarians and trustees to their successors in office, the use of them by the inhabitants of the district, the number of volumes to be taken by any one person at any one time or during any term, the periods of their return, the fines and penalties that may be imposed by the trustees of such libraries for not returning, losing or destroying any of the books therein, or for soiling, defacing or injuring them, may be framed by the superintendent of common schools, and printed copies thereof shall be furnished to each school district of the state, which regulations shall be obligatory upon all persons and officers having charge of such libraries, or using or possessing any of the books thereof. Such fines may be recovered in an action of debt, in the name of the trustees of any such library, of the person on whom they are imposed, except such person be a minor; in which case they may be recovered of the parent or guardian of such minor, unless notice in writing shall have been given by such parent or guardian to the trustees of such library, that they will not be responsible for any books delivered such minor. And persons with whom minors reside shall be liable in the same manner, and to the same extent, in cases where the parent of such minor does not reside in the district.

Fines; how
recovered.

Appeals to
superin-
tendent.

§ 4. Any person conceiving himself aggrieved by any act or decision of any trustees of school districts, concerning district school libraries or the books therein, or the use of such books, or of any librarian, or of any district meeting in relation to their school library, may appeal to the superintendent of common schools, in the same manner as provided by law

in relation to common schools, and his decisions thereon shall be final.

§ 5. The legal voters in any two or more adjoining districts may, in such cases as shall be approved by the superintendent of common schools, unite their library moneys and funds as they shall be received or collected, and purchase a joint library for the use of the inhabitants of such districts, which shall be selected by the trustees thereof, or by such person as they shall designate, and shall be under the charge of a librarian to be appointed by them; and the foregoing provisions of this act shall be applicable to the said joint libraries, except that the property in them shall be deemed to be vested in all the trustees for the time being of the districts so united. And in case any such district shall desire to divide such library, such division shall be made by the trustees of the two districts whose libraries are so united: and in case they cannot agree, then such division shall be made by three disinterested persons, to be appointed by the superintendent of common schools.

Joint libraries by two or more districts.

§ 6. The moneys directed to be distributed to common schools by the fourth section of chapter two hundred and thirty-seven of the acts of 1838, shall be applied to the purchase of books for a district library for the term of five years; and the said moneys shall be distributed to the school districts in the same manner and proportions as the public school money, and upon the like terms and conditions in all respects. And if by reason of non-compliance with such conditions, any library money shall be withheld from any school district, the same may be distributed among other districts complying with such conditions, or may be retained and paid subsequently to the district from which the same was withheld, as shall be directed by the superintendent of common schools, according to the circumstances of the case.

Distribution of library money.

When it may be withheld.

Ante, p. 96.

§ 7. The superintendent of common schools, whenever requested by the trustees of a school district under the directions of the legal voters of such district, may select a library for their use, and cause the same to be delivered to the clerk of the county in which such district is situated, at its expense. He shall transmit a sufficient number of copies of this act to supply each school district in the state, with forms and instructions for its execution, to the clerks of the respective counties, who shall forward the number directed to each school district in his county to the clerk thereof.

Libraries when selected by superintendent.

Instructions for executing this act.

CHAP. 330.

AN ACT to amend title second of chapter fifteen of the first part of the Revised Statutes, relating to common schools.

PASSED MAY 3, 1839.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

School moneys omitted to be raised in 1838, how raised.

How apportioned.

Future omissions how remedied.

Clerks of supervisors to transmit certain resolutions.

§ 1. In all cases in which the board of supervisors of any county may have omitted during the last year to add to the sums of money to be raised on each of the towns of their county, a sum equal to the school and library money which was apportioned to such town by the superintendent of common schools the past year, it shall be their duty, at their next annual meeting, to add the amount so deficient to the sums of money to be raised on the respective towns in such county, which moneys, together with the fees of the collector, shall be levied and collected in the same manner as other moneys directed to be raised on the town : and shall be added to the moneys to be apportioned to the school districts in such town at the next apportionment.

§ 2. Whenever any board of supervisors shall hereafter omit, at their annual meeting, to add to the sums of money to be raised on the towns of their county, an equal sum to that apportioned to such towns by the superintendent of common schools in any year, it shall be their duty to hold a special meeting for the purpose of adding the sum that may be deficient, whenever it can be done in time to allow such deficient sum to be collected with the other taxes of the county; and such special meeting shall be notified by the clerk of the board of supervisors on receiving notice of the deficiency from a majority of the board of supervisors of said county; and in case such deficient sum shall not be directed to be raised at a special meeting, it shall be the duty of the supervisors of such county, at their next annual meeting, to add the amount of such deficiency to the sums to be raised on each of the towns of the county, which, with the fees of collection, shall be levied and collected in the same manner as other moneys directed to be raised in the town, and shall be apportioned among the school districts therein according to law.

§ 3. It shall be the duty of the clerk of the board of supervisors in each county of this state, on the last day of December in each year, to transmit to the superintendent of common schools certified copies of all resolutions and proceedings of the board of supervisors, of which he is clerk, passed or had during the preceding year, relating to the raising of any money for school or library purposes, and to report particu-

larly the amount of such money directed to be raised in each town of such county; and in case it shall not appear that the amount required by law to be raised for school and library purposes, has been directed to be raised during the year by the board of supervisors of any county, the superintendent of common schools and the comptroller may direct that the money appropriated by the state and apportioned to such county, be withheld until the amount that may be deficient shall be raised, or that so much only of the money apportioned to such county be paid to the treasurer thereof, as shall be equal to the amount directed to be raised therein by the supervisors of such county; and in such case the balance so withheld shall be added to the principal of the common school fund.

When school money may be withheld from a county.

How applied.

§ 4. When the clerk, and all the trustees of a school district, shall have removed, or otherwise vacated their office, and where the records of a district shall have been destroyed or lost, or where trustees neglect or refuse to call meetings to choose trustees, the superintendent of common schools shall have authority to order such meetings; and all elections of district officers heretofore had at meetings ordered by the superintendent, are hereby declared to be legal and valid.

School district meetings when may be ordered by superintendent.

[Section 5 repealed by Laws of 1843, ch. 133.]

§ 6. Commissioners of common schools, and trustees and clerks of school districts, refusing or wilfully neglecting to make any report, or to perform any other duty required by law, or by regulations or decisions made under the authority of any statute, shall severally forfeit to their town, or to their district, as the case may be, for the use of the common schools therein, the sum of ten dollars for each such neglect or refusal, which penalty shall be sued for and collected by the supervisor of the town, and paid over to the proper officers to be distributed for the benefit of the common schools in the town or district to which such penalty belongs; and when the share of school or library money apportioned to any town or district, or any portions thereof, or any money to which a town or school district would have been entitled, shall be lost in consequence of any wilful neglect of official duty by any commissioners of common schools, or trustees or clerks of school districts, the officers guilty of such neglect shall forfeit to the town or district the full amount, with interest, of the moneys so lost; and they shall be jointly and severally liable for the payment of such forfeiture.

Penalty on certain officers for neglect of duty.

To be sued for by supervisors.

Money lost by neglect to be recovered.

§ 7. Copies of papers deposited or filed in the office of the superintendent of common schools, and all acts and decisions by him, may be authenticated under the seal of the office of secretary of state, and when so authenticated shall be evidence equally and in like manner as the originals.

Acts of superintendent how authenticated.

§ 8. The superintendent of common schools may appoint such and so many persons as he shall from time to time deem necessary, to visit and examine into the condition of the

Visitors of common schools to be appointed.

PART I.

common schools in the county where such persons may reside, and report to the superintendent on all such matters relating to the condition of such schools, and the means of improving them, as he shall prescribe; but no allowance or compensation shall be made to the said visitors for such services.

CHAP. 260.

AN ACT to amend the second Title of the fifteenth Chapter of the first Part of the Revised Statutes, relating to common schools.

PASSED May 26, 1841.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section
amended.

§ 1. The twenty-sixth section of the second Title of Chapter fifteenth, Part first of the Revised Statutes, shall be amended by striking out the words "If after the annual reports of the districts shall have been received," and substituting in place thereof the following: "If after the time when the annual reports are required to be dated."

Accidental
omissions
to report,
&c. how
corrected.

§ 2. Whenever an apportionment of the public money shall not be made to any school district, in consequence of any accidental omission to make any report required by law, or to comply with any other provision of law, or any regulation, the superintendent of common schools may direct an apportionment to be made to such district, according to the equitable circumstances of the case, to be paid out of the public money on hand; or if the same shall have been distributed, out of the public money to be received in a succeeding year.

Consolidating
districts or
annulling
them, effect
of.

§ 3. When two or more districts shall be consolidated into one, the new districts shall succeed to all the rights of property possessed by the districts of which it shall be composed; and when a district is annulled, and portions of it are annexed to other districts, that district into which the school house, or its site, or any other property of such dissolved district may fall, shall succeed to all the rights of the annulled district in respect to such property, and whenever two or more districts or parts of districts shall be united and there shall be more than one school house in such new or altered district, the trustees of such district may sell the site and buildings thereon, of either or both the school houses situated in such new district.

Appraisal,
&c. of prop-
erty of
dissolved
district.

§ 4. In cases where by the dissolving a district its school house, or other property shall be annexed to or included in another district, the commissioners of common schools, by whose orders such dissolution was effected, shall appraise such property in the manner provided by law in cases of the creation of new districts; and the proportions assigned to the inhabitants of such dissolved district who are not annexed to

the district which includes the school house, or other property, shall be raised by the trustees of such last mentioned district and paid over to the trustees of the district to which such inhabitants are annexed, in the same manner as in case of the creation of a new district, and to be applied to the same purpose.

§ 5. When there shall be any moneys in the hands of the officers of a district that is or may be annulled, or belonging to such district, the commissioners of common schools of the town may demand, sue for, and recover the same, in their name of office, and shall apportion the same equitably between the districts to which the several portions of such annulled district may have been annexed, to be held and enjoyed as district property.

Moneys of such district.

§ 6. There shall hereafter be elected only two inspectors of common schools in each town, and it shall not be necessary for more than two inspectors to meet and certify to the qualifications of any teacher.

Two inspectors in each town.

§ 7. Every male person of full age, residing in any school district, and entitled to hold lands in this state, who owns or hires real property in such district subject to taxation for school purposes, and every resident of such district authorized to vote at town meetings of the town in which such district or part of district is situated, and who has paid any rate-bill for teachers' wages in such district, within one year preceding, or who has paid any district taxes within two years preceding, or who owns any personal property liable to be taxed for school purposes in such district, exceeding fifty dollars in value, exclusive of such as is exempt from execution and no others, shall be entitled to vote at any school district meeting held in such district.

Qualification of voters at district meetings.

§ 8. If any person offering to vote at any school district meeting, shall be challenged as unqualified by any legal voter in such district, the chairman presiding at such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am an actual resident of this school district, and that I am qualified to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his vote shall be rejected.

Proceedings on challenge.

§ 9. Every person who shall willfully make a false declaration of his right to vote at a district meeting, upon being challenged as herein before provided, shall be deemed guilty of a misdemeanor, and punishable by imprisonment in the county jail for a term not exceeding one year, nor less than six months, at the discretion of the court; and any person voting at any school district meeting without being qualified, shall, on conviction, be subject to a fine of ten dollars, to be sued for and recovered by the trustees of the district for its use, and with costs of suit, before any justice of the peace.

Penalty for false declaration and for illegal voting.

PART I.

Two or
more sites
in district.

Tax to
purchase
maps, &c.

Blank
books to be
provided,
entries to
be made in
them.

Indigent
pupils
exemption
of, how
supplied.

Certain
charges on
districts
defrayed by
tax.

Schools for
colored
children.

§ 10. The inhabitants of any school district, when lawfully assembled in any district meeting, in addition to the powers now conferred, may, with the consent of the commissioners of common schools of the town, designate sites for two or more school-houses for such district, and lay a tax on the taxable property in such district, to purchase or lease such sites, and to hire, build or purchase such school-houses, and to keep in repair and furnish the same with necessary fuel and appendages; and may also in their discretion lay a tax not exceeding twenty dollars in any one year, to purchase maps, globes, black-boards and other school apparatus.

§ 11. It shall be the duty of the trustees of school districts, to procure for the use of their district two bound blank books from time to time, as shall be necessary, in one of which the accounts of all moneys received and paid by the trustees, and a statement of all moveable property belonging to the district, shall be entered at large, and signed by such trustees, at or before each annual meeting in such district. In the other of the said books, the teachers shall enter the names of the scholars attending school, and the number of days they shall have respectively attended, and also the days on which such school shall have been inspected by the deputy superintendent and the town inspectors; which entries shall be verified by the oath or affirmation of the teachers, and shall constitute the list on which rate bills shall be apportioned. The said books shall be preserved by the trustees as the property of the district, and shall be delivered to their successors.

[Section 12 repealed by Laws of 1843, ch. 133.]

§ 13. The trustees of any school district may exempt any indigent person from the payment of the teacher's wages, either in part or wholly, and shall certify the whole amount of such exemption in any one quarter or term, and the same shall be a charge upon such district.

§ 14. When the trustees of any school district are required or authorized by law, or by vote of their district, to incur any expense for such district, and when any expenses incurred by them, are made by express provision of law a charge upon such district, they may raise the amount thereof by tax in the same manner as if the definite sum to be raised had been voted by a district meeting, and the same shall be collected and paid over in the same manner.

3 D., 114; 4 D., 125, 297.

§ 15. A school for colored children may be established in any city or town of this state, with the approbation of the commissioners of common schools of such city or town, which shall be under the charge of the trustees of the district in which such school shall be kept; and in places where no school districts exist, or where from any cause it may be expedient, such school may be placed in charge of trustees to be appointed by the commissioners of common schools of the town or city, and if there be none, to be appointed by the superintendent.

Returns shall be made by the trustees of such schools to the commissioners of common schools, at the same time and in the same manner as now provided by law in relation to districts; and they shall particularly specify the number of colored children over five and under sixteen years of age, attending such school from different districts, naming such districts respectively, and the number from each. The commissioners shall apportion and pay over to the trustees of such schools, a portion of the money received by them annually, in the same manner as now provided by law in respect to school districts, allowing to such schools the proper proportion for each child over five and under sixteen years, who shall have been instructed in such school at least four months by a teacher duly licensed, and shall deduct such proportion from the amount that would have been apportioned to the district to which such child belongs; and in their reports to the superintendent the commissioners shall specially designate the schools for colored children in their town or city.

Apportionment of moneys on account of colored children.

§ 16. No commissioner of common schools or supervisor of a town shall be eligible to the office of trustee of a school district, and no person chosen a trustee can hold the office of district clerk or collector.

Certain offices incompatible.

§ 17. Whenever the time for holding annual meetings in a district for the election of district officers shall pass without such election being held, a special meeting shall be notified by the clerk of such district to choose such officers; and if no such notice be given by him or the trustees last elected or appointed, within twenty days after such time shall have passed, any inhabitant of such district qualified to vote at district meetings, may notify such meeting in the manner provided by law in case of the formation of a new district; and the officers chosen at any such special meeting, shall hold their office until the time for holding the next annual meeting; and all elections of district officers heretofore had at a special meeting, are hereby confirmed and declared valid.

Special meetings for election of district officers.

§ 18. When in consequence of the loss of the records of a school district, or the omission to designate the day for its annual meeting, there shall be none fixed, or it cannot be ascertained, the last trustees of such district may appoint a day for holding the annual meeting of such district; and all such appointments heretofore made by the superintendent of common schools are hereby confirmed; and the elections and other proceedings had at the meetings so appointed, are declared valid.

Day for annual meeting, by whom to be fixed in certain cases.

§ 19. In making out a tax list, the trustees of school districts shall apportion the same on all the taxable inhabitants of the district or corporations holding property therein, according to the valuations of the taxable property which shall be owned or possessed by them at the time of making out such list within such district, or partly within such district and partly in an adjoining district, and upon all real estate lying within the boundaries of such district, the owners of

Tax, how to be apportioned

PART I.

which shall be non-residents, and which shall be liable to taxation for town or county purposes and shall be situated within three miles of the site of the school house in such district. But when it shall be ascertained that the proportion of any tax upon any lot, tract or parcel not occupied by any inhabitant would not amount to fifty cents, the trustees in their discretion may omit such lot, tract or parcel from the tax list, and sections seventy-six and seventy-eight of the second Title and fifteenth Chapter of the first Part of the Revised Statutes are hereby repealed.

Non-resident land to be described in tax list.

§ 20. When any real estate within a district, so liable to taxation, shall not be occupied and improved by the owner, his servant or agent, and shall not be possessed by any tenant, the trustees of any district at the time of making out any tax list by which any tax shall be imposed thereon, shall make and insert in such tax list a statement and description of every such lot, piece or parcel of land so owned by non-residents therein, in the same manner as required by law from town assessors in making out the assessment rolls of their towns; and if any such lot is known to belong to an incorporated company the name of such company shall be specified, and the value of such lot or piece of land shall be set down opposite to such description, which value shall be the same that was affixed to such lot or piece of land in the last assessment roll of the town; and if the same was not separately valued in such roll, then it shall be valued in proportion to the valuation which was affixed in the said assessment roll to the whole tract of which such lot or piece shall be a part.

Duty of collector as to taxes unpaid, on non-resident land.

§ 21. If any tax on the real estate of a non-resident mentioned in the tax list delivered to the collector of any school district shall be unpaid at the time he is required by law to return his warrant, he shall deliver to the trustees of such district an account of the taxes so remaining due, containing a description of the lots and pieces of land upon which any taxes were imposed as the same were stated in his tax list together with the amount of the tax assessed on each, and upon making oath before any justice of the peace or judge of any court of record that the taxes mentioned in such account remain unpaid, and that after diligent efforts he has been unable to collect the same, he shall be credited by said trustees with the amount thereof.

Duty of trustees.

§ 22. Whenever the trustees of any school district shall receive such an account of unpaid taxes from any collector, they shall compare the same with the original tax list, and if found to be a true transcript, they shall add to such account a certificate to the effect that they have compared the same with the original tax list and found it to be correct, and shall immediately transmit such account, with the collector's affidavit and their certificate to the treasurer of the county.

Tax to be paid by county treasurer.

§ 23. Out of any moneys in the county treasury, raised for contingent expenses, the county treasurer shall pay to the trus-

tees of the school district in which such taxes were imposed, the amount thereof so returned as unpaid.

§ 24. Such account, affidavit and certificate shall be laid, by the county treasurer, before the board of supervisors of the county, who shall cause the amount of such unpaid taxes, with seven per cent of the amount in addition thereto, to be levied upon the lands of non-residents, on which the same were imposed, and if imposed upon the land of any incorporated company, then upon such company, in the same manner that the contingent charges of the county are directed to be levied and collected, and when collected the same shall be returned to the county treasury to reimburse the amount so advanced, with the expense of collection.

Supervisors
to collect
the same.

§ 25. Any person whose lands are included in any such account may pay the tax assessed thereon to the county treasurer, at any time before the board of supervisors shall have directed the same to be levied.

Owner may
pay tax.

§ 26. The same proceedings in all respects shall be had for the collection of the amount so directed to be raised by the board of supervisors as are provided by law in relation to county taxes; and upon a similar account as in the case of county taxes of the arrears thereof uncollected, being transmitted by the county treasurer to the Comptroller, the same shall be paid on his warrant to the treasurer of the county advancing the same; and the amount so assumed by the state shall be collected for its benefit, in the manner prescribed by law in respect to the arrears of county taxes upon lands of non-residents; or if any part of the amount so assumed consisted of a tax upon any incorporated company, the same proceedings may also be had for the collection thereof as provided by law, in respect to county taxes assessed upon such company.

Proceed-
ings to
collect.

State to
assume
amount.

How col-
lected.

§ 27. A person working land under a contract for a share of the produce of such land, shall be deemed the possessor, so far as to render him liable to taxation therefor, in the district where such land is situate.

Certain
occupants
deemed
possessors.

§ 28. Any collector of a school district may execute any warrant for the collection of a tax or rate-bill of said district, in any other district or town, in the same manner and with the like authority as in the district for which he was chosen or appointed.

Warrants
how execu-
ted by
collectors.

§ 29. It shall not be necessary for trustees of school districts to affix their seals to any warrant for the collection of any tax or rate-bill.

Seals to
warrants
abolished.

§ 30. Where by reason of the inability to collect any tax or rate-bill, there shall be a deficiency in the amount raised, the inhabitants of the district in district meeting, shall direct the raising of a sufficient sum to supply such deficiency by tax, or the same shall be collected by rate-bill, as the case may require.

Deficiencies
in taxes on
rate-bills.

§ 31. Town clerks shall be allowed in their accounts for all

Town
clerks al-

PART I.
allowances
to, their
duty.

postages actually paid by them on communications from commissioners of common schools, or from trustees of school districts; and it shall be their duty to transmit to the superintendent, the names of the clerks of the several school districts to distribute communications from the superintendent to the clerks of the school districts, and to receive and transmit to the superintendent such returns and papers as he shall, by regulation, require to be transmitted by them.

Periodical
devoted to
cause of
education,
may be sub-
scribed for.

§ 32. The superintendent of common schools from year to year for three succeeding years, shall be authorized to subscribe for so many copies of any periodical published at least monthly in this state, exclusively devoted to the cause of education, and not partaking of a sectarian or party character, as shall be sufficient to supply one copy to each organized school district in the state; in which periodical the statutes relating to common schools, passed at the present or any future session of the Legislature, and the general regulations and decisions of the superintendent made pursuant to any law, shall be published gratuitously. The said periodical shall be sent to the clerk of each district, whose duty it shall be to cause each volume to be bound at the expense of the district, and the same shall be preserved in the district library for the use of the district. The expense of such subscription, not exceeding twenty-eight hundred dollars annually, shall be paid out of the surplus income arising from the moneys deposited with this state by the United States.

How dis-
tributed.

Costs not to
be allowed
in certain
suits
against
school
officers.

§ 33. In any suit which shall hereafter be commenced against commissioners of common schools, or officers of school districts, for any act performed by virtue of, or under color of, their offices, or for any refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the superintendent, no costs shall be allowed to the plaintiff in cases where the court shall certify that it appeared on the trial of the cause that the defendants acted in good faith. But this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the superintendent.

3 D., 177.

Children to
be included
in annual
reports.

§ 34. The annual reports of trustees of school districts, of children residing in their district, shall include all over five and under sixteen years of age, who shall, at the date of such report, actually be in the district, composing a part of the family of their parents or guardians, or employers, if such parents, guardians or employers reside at the time in such district, although such residence be temporary; but such report shall not include children belonging to the family of any person who shall be an inhabitant of any other district in this state, in which such children may by law be included in the reports of its trustees.

Such chil-
dren enti-
tled to

§ 35. All children included in the reports of the trustees of any school district shall be entitled to attend the schools

of such district; and whenever it shall be necessary for the accommodation of the children in any district, the trustees thereof may hire, temporarily, any room or rooms for the keeping of schools therein, and the expense thereof shall be a charge on such district.

CHAP. XV.
attend
schools.
Rooms may
be hired.

§ 36. The board of supervisors in each county in the state shall appoint a deputy superintendent of common schools for such county; and in those counties in which there shall be more than two hundred school districts, reckoning two parts of joint districts as one, they may appoint two deputies. Such deputies shall hold their offices, respectively, for two years, subject to removal by the board of supervisors, on complaint for causes to be stated. A certified copy of every resolution making such appointment shall be transmitted by the clerk of the board of supervisors to the superintendent. Every such deputy superintendent shall have power, and it shall be his duty, *Post*, p. 457.

Deputy
superin-
tendent for
each county
to be ap-
pointed.

Term of
office.

1. To visit and examine all the schools and school districts committed to his charge as often in each year as may be practicable, having reference to the number of such districts; to notify the inspectors of common schools of the town of the time appointed to visit the schools in such town, and to invite such inspectors to visit, with him, the said schools, and with such inspectors, if they or any of them will attend at such visits, or without their presence, at any time to inquire into all matters relating to the government, course of instruction, books, studies, discipline and conduct of such schools, and the condition of the school houses, and of the districts generally; and to advise and counsel with the trustees and other officers of school districts in relation to their duties, particularly in relation to the erection of school houses, and to recommend to such trustees, and the teachers employed by them, the proper studies, discipline and conduct of the schools, the course of instruction to be pursued, and the books of elementary instruction to be used therein:

Their
powers and
duties.
To visit
schools.

2. To examine persons offering themselves as candidates for teachers of common schools, and to grant them certificates of qualification, in such form as shall be prescribed by the superintendent; which certificates shall be evidence of the qualification of such teachers, in every town and district of the county for which such deputy superintendent shall be appointed:

To license
teachers.

3. By and with the consent of any two inspectors of any town to annul any certificate granted to any teacher in said town, whenever such teacher shall be found deficient:

When to
annul
licenses.

4. And generally, by all the means in his power, to promote sound education, elevate the character and qualifications of teachers, improve the means of instruction, and advance the interests of the schools committed to his charge.

§ 37. Any superintendent may at any time resign his office to the clerk of the county for which he was appointed; and in

Resigna-
tion.

PART I.
Vacancies
how filled.

Subject to
general
rules, &c.

Reports.

Their com-
pensation,
how paid.

Appeals to
superin-
tendent
under this
act.

General
deputy of
superin-
tendent.

County
maps may
be furnis-
hed districts.

case of a vacancy in the office from any cause, such clerk may fill the vacancy, until the next meeting of the board of supervisors.

§ 38. The deputy superintendents shall be subject to such general rules and regulations as the superintendent may from time to time prescribe, and appeals from their acts and decisions may be made to him in the same manner and with the like effect as in cases now provided by law, and they shall make reports annually to the superintendent at such times as shall be appointed by him, which shall be the same as are now required to be made by county clerks, with such additional information as he shall require; and for that purpose, they shall have access to the reports of the commissioners filed with the county clerk, without charge; and the county clerks shall not be required to make returns in those counties where deputy superintendents may be appointed.

§ 39. The deputy superintendents shall each be allowed two dollars for each day necessarily spent in the discharge of their duties; but the whole amount of compensation in any one year, shall not exceed five hundred dollars for any deputy superintendent, and the amount shall be audited and certified by the board of supervisors of the county. One equal moiety of said amount shall be a county charge upon the counties respectively for which they shall be appointed, and shall be raised and paid in the same manner as other county charges. The remaining moiety shall be paid by the Treasurer on the warrant of the Comptroller, out of the annual surplus now appropriated to the capital of the common school fund, arising from the income of the moneys deposited by the United States.

§ 40. All proceedings under any authority conferred by this act upon school districts, trustees, commissioners of common schools or other officers, and all omissions and refusals to perform any duty enjoined by this act, shall be subject to appeal to the superintendent, in the same manner and with the like effect, as in cases arising under the second Title of the fifteenth Chapter and first Part of the Revised Statutes.

1 D., 147.

§ 41. The superintendent of common schools may designate and appoint any one of the clerks employed by him to be his general deputy, who may perform all the duties of the superintendent in case of his absence or a vacancy in his office.

§ 42. The superintendent may procure and furnish to each school district in the state, one copy of a map of the county in which such district is located, and where a district consists of parts of two or more counties, then a map of the county in which the school house in such district is situated, the same to be neatly varnished and mounted on rollers, and to contain a brief summary of the geological and topographical statistics of the county, with a statement of the population of the several towns according to the last national census.

The entire expense of such maps when delivered to the several districts, shall not exceed on the average, eighty-eight cents to each district; and the accounts of the superintendent therefor shall be paid on the warrant of the comptroller out of the moneys appropriated by the act of the 17th April, 1838, for the purchase of district libraries; and the sums so paid shall be withheld from distribution, to the treasurers of the several counties by the comptroller.

CHAP. XV.
Expense
how de-
frayed.

§ 43. The superintendent of common schools may cause to be printed a sufficient number of forms of reports by trustees of school districts and commissioners of common schools, and of lists of pupils attending schools, and cause them to be transmitted to the several county clerks, for the use of those officers and of teachers of schools; and he shall cause Title second of Chapter fifteen and Part First of the Revised Statutes to be printed, and shall insert therein all acts and parts of acts which have been passed by the legislature, connected with the subjects of the said title, which are now in force; and where any provisions of the said title have been altered by subsequent acts, such provisions shall be varied so as to make them conformable to such alterations; but the original numbers of the sections shall be indicated in such mode as he shall judge proper. Copies of the said title so amended shall be transmitted to the commissioners of common schools, and all other officers charged with the performance of any duty under its provisions, with such explanations and instructions as may be deemed expedient.

Forms, &c.
to be
printed.

School act
when
amend-
ments to be
printed.

And dis-
tributed
with in-
structions.

§ 44. The provisions of this act shall not apply to the city of New York.

CHAP. 133.

AN ACT amendatory of the several acts relating to Common Schools.

PASSED April 17, 1843.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. The offices of commissioners and inspectors of common schools are hereby abolished.

Offices
abolished.

§ 2. There shall hereafter be annually elected in each of the towns of this state, at the same time and in the same manner that other town officers are chosen, an officer, to be denominated "Town Superintendent of Common Schools," who, in addition to the powers and duties hereinafter conferred and imposed, shall perform all the duties, and be subject to all the restrictions and liabilities now by law imposed upon commissioners and inspectors of common schools, except as otherwise herein provided. It shall be his duty, within ten days after his election, to execute to the supervisor of his town,

Town su-
perintend-
ents to be
elected.

PART I.

and file with the town clerk, a bond with one or more sufficient sureties, to be approved of by said supervisor by endorsement over his signature on said bond, in the penalty of double the amount of school money which his town received from all sources during the year preceding that for which he shall have been elected, conditioned for the faithful application and legal disbursement of all the school money coming into his hands. In case such bond shall not be executed and filed within the time herein specified, the office of such town superintendent shall be deemed vacant, and such or other vacancy shall be filled in the same manner as vacancies in the office of commissioners of common schools are now by law directed to be filled. Such town superintendent shall be entitled to a compensation of one dollar and twenty-five cents for every day necessarily spent in the discharge of the duties of his office, to be audited and allowed as other town charges.

3 D., 114.

School districts how erected and altered.

§ 3. In the erection or alteration of a school district, the trustees of any district to be affected thereby, may apply to the supervisor and town clerk to be associated with the town superintendent; and their action shall be final unless duly appealed from; the compensation of the supervisor and town clerk when thus associated, shall be the same as that of the town superintendent.

3 D., 114.

Two county superintendents may be appointed in certain cases.

§ 4. The board of supervisors of any county, in which there shall be more than one hundred and fifty school districts, may appoint two county superintendents, or one in their discretion; and at all such appointments hereafter made, the board shall divide the county into two convenient districts, designating the person appointed for each district respectively, when there shall be two appointed; but no share of the public money shall hereafter be apportioned to any county in which a county superintendent shall not have been appointed, unless by order of the superintendent of common schools.

County superintendent may be removed for cause.

§ 5. Any county superintendent may be removed from office by the superintendent of common schools, whenever in his judgment sufficient cause for such removal exists; and the vacancy thereby occasioned shall be supplied by appointment under his hand and official seal, until the next meeting of the board of supervisors of the county in which such vacancy exists. A copy of the order making such removal, specifying the causes thereof, shall be forwarded to the clerk of the board of supervisors, to be by him laid before the board at their first meeting.

State moiety of compensation, when to be paid.

§ 6. The moiety of the compensation of the county superintendent of any county payable by the state, shall not hereafter be paid, except upon the production to the comptroller of the certificate of the superintendent of common schools, that the county superintendent has conformed to the instruc-

tions of the department and also made the annual report required by law.

§ 7. All appeals now authorized by law to be brought to the superintendent of common schools, shall first be presented to the county superintendent of the county, or section of county in which the subject matter of such appeal shall have originated, in the same manner as now provided in relation to appeals to the superintendent of common schools, who is hereby authorized and required to examine and decide the same; and where the district in which the subject matter of such appeal shall have arisen, shall be a joint district embracing portions of two counties or towns, such appeal shall be brought to the county superintendent of the county or section in which the school house of such district shall be located. The decision of such county superintendent shall be final and conclusive, unless appealed from to the superintendent of common schools within fifteen days after the service of a copy of such decision upon the parties respectively. And an appeal from the decision of the county superintendent to the superintendent of common schools may be made in fifteen days, as now provided by law in relation to appeals from districts, in such manner and under such regulations as shall be prescribed by the superintendent of common schools.

All appeals to be first presented to county superintendent.

§ 8. Certificates of qualification hereafter granted to applicants by county superintendents, shall either be general, in the form heretofore prescribed under the authority of law, in which case they shall be valid throughout the district of the county superintendent granting the certificate until annulled; or special, in which case the town in which such applicant shall be authorized to teach shall be specified; and such certificate shall be in force for a term not exceeding one year.

Certificates of qualification to teachers.

§ 9. The consent of the town superintendent shall not be requisite to the annulling of any certificate of qualification granted by any county superintendent.

How annulled.

§ 10. The superintendent of common schools, on the recommendation of any county superintendent, or on such other evidence as may be satisfactory to him, may grant certificates of qualification under his hand and seal of office, which shall be evidence that the holder of such certificate is well qualified in respect to moral character, learning and ability to teach any district school within this State; which certificate shall be valid until duly revoked by the superintendent.

Superintendent of common schools may grant certificates.

§ 11. The board of supervisors of the several counties, may audit and allow the accounts of the county superintendents of their respective counties, rendered under oath, for postage on their necessary official communications with the inhabitants and officers of the several districts within their jurisdiction.

Postage may be allowed.

§ 12. The trustees of each of the several school districts next hereafter to be chosen, shall be divided by lot into three classes, to be numbered one, two and three; the term of office

Trustees to be divided into three classes.

PART I.

of the first class shall be one year, of the second, two, and of the third, three; and one trustee only shall thereafter annually be elected, who shall hold his office for three years, and until a successor shall be duly elected or appointed. In case of a vacancy in the office of either of the trustees, during the period for which he or they shall have been respectively elected, the person or persons chosen or appointed to fill such vacancy shall hold the office only for the unexpired term so becoming vacant.

Errors in
tax lists or
rate bills,
how cor-
rected.

§ 13. Whenever the trustees of any school district shall discover any error in a tax list or rate bill made out by them, prior to the expenditure of the amount therein directed to be raised, they may refund any amount improperly collected on such tax list or rate bill, and amend and correct such tax list or rate bill, in conformity to law; and whenever more than one renewal of a warrant for the collection of any tax list or rate bill, may become necessary in any district, the trustees may make such further renewal, with the written approbation of the town superintendent of the town in which the school house of said district shall be located, to be endorsed upon such warrant.

Annual
report of
trustees.

§ 14. The annual reports required by law of trustees of school districts shall be made and transmitted to the town superintendents, between the first and fifteenth days of January in each year, who shall file the same in the office of the town clerk.

Apportion-
ment of
public
money by
town super-
intendent.

§ 15. In making the apportionment of public money, it shall be the duty of the town superintendent to designate the respective proportions of teachers' and library money belonging to each district, and to pay over so much as is designated teachers' money, on a written order of a majority of the trustees of each district, to the teachers entitled to receive the same. No portion of the teachers' fund shall hereafter be apportioned or paid to any district or part of a district, unless it shall appear from the last annual report of the trustees, that a school had been kept for the length of time now required by law by a duly qualified teacher, and that no other than a duly qualified teacher had at any time during the year for more than one month, been employed to teach the school in said district; and no portion of the library money shall be apportioned or paid to any district or part of a district, unless it shall appear from the last annual report of the trustees, that the library money received at the last preceding apportionment was duly expended according to law, on or before the first day of October subsequent to such apportionment.

Distribu-
tion of
library
money
under act
of 1888.

§ 16. The moneys directed to be distributed to the several school districts of this state, by the fourth section of chapter two hundred and thirty-seven, of the laws of eighteen hundred and thirty-eight, shall continue to be applied to the purchase of books for a district library until otherwise directed by law; but whenever the number of volumes in the district

library of any district numbering over fifty children between the ages of five and sixteen years, shall exceed one hundred and twenty-five; or of any district numbering fifty children or less, between the said ages, shall exceed one hundred volumes, the inhabitants of the district qualified to vote therein, may, at a special meeting, duly notified for that purpose, by a majority of votes, appropriate the whole, or any part of library money belonging to the district for the current year, to the purchase of maps, globes, blackboards, or other scientific apparatus, for the use of the school.

§ 17. The subscriptions authorized by section thirty-two, of the laws of one thousand eight hundred and forty-one, may be renewed from year to year by the superintendent of common schools, subject to the restrictions and limitations in said section prescribed. Subscriptions under act of 1841.

§ 18. It shall be the duty of the supervisor and justices of each of the towns in this state, on the first day of June next, by writing, under their hands, to be filed in the office of the town clerk, to designate one of the electors of each town as town superintendent of common schools under this act; and the person so designated shall perform all the duties, and be subject to all the liabilities imposed or conferred by this act on the town superintendents, and shall hold his office until the next annual town meeting. Duty of supervisor and justices of towns on the 1st of June, 1843

§ 19. Sections five of chapter three hundred and thirty of the laws of eighteen hundred and thirty-nine, and twelve of chapter two hundred and sixty of the laws of eighteen hundred and forty-one, and all other such provisions of law as are repugnant to, or inconsistent with, the provisions of this act, are hereby repealed; but nothing in this act contained shall be so construed as to impair or affect any of the local provisions respecting the organization and management of schools in any of the incorporated cities or villages or towns of this state. Sections repealed.

§ 20. The officers heretofore chosen or appointed under the thirty-sixth section of chapter two hundred and sixty of the laws of eighteen hundred and forty-one, shall hereafter be known and designated by the name of "County Superintendents of Common Schools." *Ante*, p. 451. County superintendents.

CHAP. 311.

AN ACT for the establishment of a Normal School.

PASSED May 7, 1844.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The treasurer shall pay on the warrant of the comptroller to the order of the superintendent of common schools, from that portion of the avails of the literature fund appro- Appropriation for a normal school.

PART I.

priated by chapter two hundred and forty-one of the laws of one thousand eight hundred and thirty-four, to the support of academical departments for the instruction of teachers of common schools, the sum of nine thousand six hundred dollars; which sum shall be expended under the direction of the superintendent of common schools, and the regents of the university, in the establishment and support of a normal school for the instruction and practice of teachers of common schools in the science of education and in the art of teaching, to be located in the county of Albany.

Amount to
be paid
yearly.

§ 2. The sum of ten thousand dollars shall, after the present year, be annually paid by the treasurer on the warrant of the comptroller, to the superintendent of common schools, from the revenue of the literature fund, for the maintenance and support of the school so established, for five years, and until otherwise directed by law.

School how
to be
managed
and gov-
erned.

§ 3. The said school shall be under the supervision, management and government of the superintendent of common schools and the regents of the university. The said superintendent and regents shall from time to time, make all needful rules and regulations, to fix the number and compensation of teachers and others to be employed therein, to prescribe the preliminary examination and the terms and conditions on which pupils shall be received and instructed therein, the number of pupils from the respective cities and counties, conforming as nearly as may be to the ratio of population, to fix the location of the said school, and the terms and conditions on which the grounds and buildings therefor shall be rented, if the same shall not be provided by the corporation of the city of Albany, and to provide in all things for the good government and management of the said school. They shall appoint a board consisting of five persons, of whom the said superintendent shall be one, who shall constitute an executive committee for the care, management and government of the said school under the rules and regulations prescribed as aforesaid, whose duty it shall be from time to time to make full and detailed reports to the said superintendent and regents, and among other things to recommend the rules and regulations which they deem necessary and proper for the said school.

Annual
report to be
made.

§ 4. The superintendent and regents shall annually transmit to the legislature a full account of their proceedings and expenditures of money under this act, together with a detailed report by said executive committee of the progress, condition and prospects of the school.

CHAP. 184.

AN ACT to increase the capital of the Common School Fund.

PASSED May 10, 1845.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. The sum of eighty-four thousand three hundred and fifty-eight dollars and fifteen cents, which has been appropriated to the state under the provisions of the act of Congress, entitled "An act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights," passed September 4th, 1841, which is now deposited in the Commercial Bank of Albany, and the interest thereof, is hereby appropriated to the use and benefit of the common school fund; but said moneys appropriated by virtue of this act are hereby received only in deposit, and liable to be refunded to the treasury of the United States, whenever Congress shall direct by law.

Capital
how in-
creased.

CHAP. 228.

AN ACT to prevent the disturbance of evening schools in the several school district houses in this State.

PASSED May 13, 1845.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. No person shall wilfully disturb, interrupt, or disquiet any assemblage of persons met at any school district, with the assent of the trustees of the school district, for the purpose of receiving instruction in any of the branches of education usually taught in the common schools of this state, or in the science of music.

Prohibition

§ 2. Whoever shall violate the provisions of the foregoing section, may be tried before any justice of the peace of the county, or any mayor, alderman, recorder, or other magistrate of any city, where the offence shall be committed; and upon conviction shall forfeit a sum not exceeding twenty-five dollars, for the use and benefit of the school district in which such offence shall be committed.

Penalty.

§ 3. It shall be the duty of the trustees of any school district in which any such offence shall be committed, to prosecute such offender, before any officer having cognizance of such offence.

Trustees to
prosecute

§ 4. If any person convicted of the offence herein prohibited, shall not immediately pay the penalty incurred, with

Offenders
may be im-
prisoned

PART I.
for non-
payment.

the costs of the conviction, or give security, to the satisfaction of the officer before whom such conviction shall be had, for the payment of the said penalty and costs within twenty days thereafter, he shall be committed by warrant to the common jail of the county, until the same be paid, or for such term not exceeding thirty days as shall be specified in such warrant.

Trial may
be by jury.

§ 5. It shall and may be lawful for any person who may be complained of for a violation of the provisions of this act, to demand of such magistrate that he may be tried by a jury. Upon such demand, it shall be the duty of such officer to issue a venire to the proper officer, commanding him to summon the same number of jurors, and in the same manner, and the said court shall proceed to empannel a jury for the trial of said cause, in the same manner and subject to all the rules and regulations prescribed in the act providing for trials by jury in courts of special sessions.

CHAP. 45.

AN ACT to amend the law in relation to common schools.

PASSED April 1, 1846.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Indian chil-
dren not to
be enumera-
ted.

§ 1. It shall not hereafter be lawful for the trustees of any school district in this state, to enumerate in their annual reports, any Indian children between the ages of five and sixteen years, residing in said districts, who shall not have attended the school of said district for at least three months during the year preceding the date of such report.

[Section 2 repealed by Laws of 1847, ch. 208.]

CHAP. 66.

AN ACT in relation to the dissolution of common school districts.

PASSED April 15, 1846.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Legal li-
abilities how
discharged.

§ 1. Whenever a school district shall be dissolved by consolidation or otherwise, it shall be the duty of the trustees of such district to make out all necessary rate bills and tax lists, and issue their warrants to the collector of such dissolved district, for the collection of all such sums of money as shall be necessary to discharge all legal liabilities of such district so dissolved, and to call special school meetings of the legal voters of such district; if need be, to raise money by tax, to discharge such demands; and the collector of such district or

districts so dissolved, shall have power to execute such warrants in the same manner as though such district had not been dissolved.

CHAP. 186.

AN ACT to abolish the office of trustees of the Gospel and School lots, and to transfer the powers and duties of the same to the town superintendent of common schools.

PASSED May 11, 1846.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The office of trustees of the Gospel and School lots in the several towns in this state, is hereby abolished; and the powers and duties now by law conferred and imposed upon said trustees, shall hereafter be exercised by the town superintendent of common schools.

Office
abolished.

CHAP. 172.

AN ACT in relation to suits against district school officers.

PASSED May 1, 1847; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever after a final determination of any suit, commenced by or against any trustee or trustees or other officer or officers of a school district, such officer or officers shall present to any regular meeting of the inhabitants of the district an account in writing of all costs, charges and expenses paid by him or them, with the items thereof, and verified by his or their oath or affirmation and a majority of the voters at such meeting shall so direct, it shall be the duty of the trustees to cause the same to be assessed upon and collected of the taxable property of said district in the same manner as other taxes are by law assessed and collected, and when so collected, by an order upon the collector, the same shall be paid over to the officer entitled to receive the same: but this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the superintendent of public instruction.

In case of a
suit brought
expense
how to be
paid.

As amended by Laws of 1863, ch. 378. Post, vol. 6, p. 130.

§ 2. Whenever any person or persons mentioned in the first section of this act shall have complied with the provisions of said section, and the inhabitants shall have refused to direct the trustees to levy a tax for the payment of the costs, charges and expenses therein mentioned, it shall be lawful

Appeal to
superior,
and the pro-
ceedings
thereon.

PART I.

for him or them then and there to give notice orally and publicly, that he will appeal to the board of supervisors of the county in which the school house of said district is located from the refusal of said meeting to vote a tax for the payment of said claim, and the inhabitants may then and there, or at any subsequent regular district meeting, appoint one or more inhabitants of the district to attend upon the meeting of the board of supervisors to protect the rights and interests of the district upon said appeal. And the person or persons before mentioned shall, thereupon, within ten days, serve upon the clerk of said district (or if there be no clerk, upon the town clerk of the town) a copy of the aforesaid account so sworn to, together with a notice in writing, that, on a certain day therein specified, he intends to present such account to the board of supervisors for settlement, pursuant to the public notice, together with the copy of the account, and the same shall be subject to the inspection of the inhabitants of the district. And it shall be the duty of the person or persons appointed by any district meeting for that purpose, to attend at the meeting of the board of supervisors on the day mentioned in the notice aforesaid, and to protect the rights of the district upon such settlement, and the expenses incurred by them in the performance of this duty shall be a charge upon said district, and the trustees, upon presentation of the account of such expenses with the proper vouchers therefor, may levy a tax therefor or add the same to any other tax to be levied by them, and their refusal to levy such tax for the payment of such expenses shall be subject to such an appeal to the superintendent of public instruction.

As amended by Laws of 1863, ch. 375. Post, vol. 6, p. 130.

Payment
when to be
made by
supervisors.

§ 3. Upon the appearance of the parties, or upon due proof of service of the notice and copy of account mentioned in second section of this act, if the said board shall be of opinion that such account or any portion thereof ought justly to be paid to the claimant, such board may, by an order to be made by a majority of all the members elected to the same, and to be entered in its minutes, require such account of such part thereof as such board shall be of opinion ought justly to be paid to the claimant, by such district to be so paid; but no portion of such account shall be so ordered to be paid which shall appear to the said board to have arisen from the willful neglect or misconduct of the claimant. The account, with the oath of the party claiming the same, shall be prima facie evidence of the correctness thereof. The board may adjourn the hearing from time to time as justice shall seem to require.

Copy to be
entered on
district
records.

§ 4. It shall be the duty of the trustees of any school district, within thirty days after service of a copy of such order upon them, to cause the same to be entered at length in the book of records of said district, and to issue to the collector of said district a warrant for the collection of the amount so directed to be paid, in the same manner and with the like force and effect as upon a tax voted by said district.

CHAP. 211.

AN ACT in relation to the payment of taxes in school districts.

PASSED May 7, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Notice to
be made.

§ 1. Whenever there shall be a tax of more than one hundred dollars to be collected in any school district, it shall be the duty of the trustees, on making out the tax list, and before delivering their warrant to the collector, to give notice by posting a written notice at three public places in the district of which the school house where there is one shall be one that

the tax list is made out, and that for the space of ten days they will receive the taxes of all such persons as choose to pay without any fees for collection.

§ 2. Any person having a tax to pay in such school district, may pay the same to the trustees or either of them, at any time within the ten days specified in such notice without the addition of any fees for collection; and if collector's fees are added in making up the tax list, such fees shall be deducted on payment being made as aforesaid.

Tax paid without fees for collection.

CHAP. 358.

AN ACT to abolish the office of county superintendent of common schools.

PASSED November 13, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The office of county superintendent of common schools is hereby abolished.

Office abolished.

[Section 2 repealed by Laws of 1847, ch. 388.] Post, p. 465.

§ 3. The annual reports now required by law to be made by the town superintendents of common schools to the county superintendent, shall be transmitted to the county clerk, on or before the first day of September in each year, and it shall be the duty of such clerk to prepare condensed statements or abstracts of the several reports so transmitted to him in such form as shall be directed by the state superintendent of common schools, and transmit the same to the said state superintendent, on or before the first day of October in each year.

Town reports to be sent to county clerks.

§ 4. Nothing herein contained shall apply to the city or county of New York.

New-York excepted.

§ 5. All laws inconsistent with this act are hereby repealed.

Repeal.

CHAP. 361.

AN ACT for the establishment of teachers' institutes.

PASSED November 13, 1847; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The treasurer shall pay, on the warrant of the comptroller, to the order of the several county treasurers of this state, the several sums of money hereinafter mentioned, not exceeding sixty dollars annually to any one county, from the income of the United States deposit fund, to be expended for the use and benefit of teachers' institutes as hereinafter provided.

Money to be paid for teachers' institutes.

PART I.
Institutes,
how and
when to be
organized.

§ 2. Whenever a majority of town superintendents of common schools in any county in this state unite in a recommendation, and file with the county clerk thereof a certificate, signifying their desire that a teacher's institute should be organized in such county, for the instruction and improvement of common school teachers for such county, it shall thereupon be the duty of such clerk forthwith to appoint three town superintendents of the county, and notify them of their appointment, to constitute an advisory committee, to make the necessary arrangements for organizing and managing such institute, and such clerk shall also immediately give such public notice in such manner as he may deem most proper to the teachers of common schools of the county, and to others who may desire to become such, specifying a time and place when and where the teachers may meet and form such institute.

Lecturers to
be procured

§ 3. Whenever any institute shall have been organized as herein provided, it shall be the duty of said committee, and they shall have power to secure two or more suitable persons to lecture before such institute upon subjects pertaining to common school teaching and discipline, and various educational subjects which may be deemed calculated to qualify common school teachers, and to elevate the profession of teaching and to improve common schools; and said committee shall keep an accurate account in items, of the necessary expenses of such institute in procuring said lecturers, and otherwise, and shall verify said account by affidavit, and deliver the same to the county treasurer, to be audited by and filed with him when application shall be made to such treasurer, as hereinafter provided.

Duty of
county
treasurers.

§ 4. Whenever any county treasurer shall receive satisfactory evidence that not less than fifty, or in counties of under thirty thousand population, then not less than thirty teachers and individuals intending to become teachers of common schools within one year, shall have been in regular attendance on the instructions and lectures of the institute in the county during at least ten working days, he shall audit and allow the account which shall be presented to him by the committee as aforesaid, and shall pay over to said committee the amount so audited and allowed, not exceeding sixty dollars in any one year, to be disbursed by said committee in paying the expenses incurred by the institute as aforesaid.

Names to be
reported to
state super-
intendent of
common
schools
yearly.

§ 5. Every such committee shall annually transmit to the state superintendent of common schools, a catalogue of the names of all persons who shall have attended such institute, with such other statistical information and within such time as may be prescribed by said state superintendent.

CHAP. 388.

AN ACT in relation to appeals to the superintendent of common schools.

PASSED November 19, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All appeals now authorized by law to be brought to a county superintendent of common schools, may, after the third day of December, one thousand eight hundred and forty-seven, be brought directly to the superintendent of common schools, who is hereby authorized and required to examine and decide the same, and whose decision in the premises shall be final and conclusive. Appeals
how and to
whom made

§ 2. The second section of the act entitled "an act to abolish the office of county superintendent of common schools" passed November 13th, 1847, is hereby repealed. Repeal. Ante, p. 463.

CHAP. 443.

AN ACT relative to the valuation of property for school purposes in school districts situated in different towns.

PASSED December 11, 1847; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In every case where any school district embraces a part of more than one town, the town superintendents of the towns so in part embraced, upon application of the trustees of such district, or of three persons liable to pay taxes upon real property therein, shall proceed to enquire and determine whether the valuation of real property upon the several assessment rolls of said towns, are substantially just as compared with each other, so far as such district is concerned; and if determined not to be so, they shall determine the relative proportion of taxes that ought to be assessed upon the real property of the part of such district so lying in different towns; and the trustees of such district shall thereupon assess the proportion of any tax thereafter to be raised, according to the determination of said superintendents, until the same shall be altered by said superintendents upon like application, using the assessment rolls of the several towns to distribute the said proportion among the persons liable to be assessed for the same. Property
how to be
valued.

§ 2. In cases where two superintendents shall be unable to agree, they shall summon a superintendent from some adjoining town, who shall unite in such inquiry and determination. In case of
disagree-
ment.

CHAP. 480.

AN ACT relative to the office of town superintendent of common schools, and amendatory of the Revised Statutes, entitled "Of public instruction."

PASSED December 15, 1847; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Town superintendents to be elected.

§ 1. There shall continue to be elected in each of the towns in this State, at the same time, and in the manner now provided by law for the election of other town officers, an officer to be denominated "town superintendent of common schools," who shall possess all the powers, perform all the duties, and be subject to all the restrictions, liabilities and penalties conferred and imposed by this act.

Those now in office how long to hold.

§ 2. The several town superintendents in office when this act takes effect, elected or appointed in conformity to existing laws, shall continue to hold their respective offices, and discharge the duties thereof until the first Monday of November, one thousand eight hundred and forty-eight.

Superintendents hereafter elected to give bond.

§ 3. The town superintendents of common schools hereafter to be elected in conformity with the provisions of this act, shall each of them, on or before the first Monday of November succeeding such election, execute to the supervisor of his town and file with the town clerk, a bond with one or more sufficient sureties to be approved by the said supervisor by endorsement over his signature on said bond, with a penalty in double the amount of all the school moneys received by his town from all sources during the preceding year and conditioned for the faithful application and legal disbursement of all the school money coming into his hands during his term of office, and for the faithful discharge of all the duties of said office; and in case such bond shall not be executed, filed and approved within the time herein prescribed, the office of such town superintendent shall be deemed vacant; and any such or any other vacancy that may occur in said office, shall be filled by any three justices of the peace of the same town by a warrant under their hands and seals, who are hereby authorized to make such appointments; and the persons so appointed shall hold their respective offices until others are elected or appointed in their places, and shall have the same powers and be subject to the same duties and penalties as if they had been duly chosen by the electors.

Vacancies to be filled by three justices.

The warrant to be filed.

§ 4. The justices making the said appointment shall forthwith cause the said warrant to be filed in the office of the town clerk of the town, and give immediate notice to the person appointed.

Tenure of office.

§ 5. Every town superintendent elected after this act takes effect shall on executing the bond as before provided, enter

upon the duties of his said office on the first Monday of November succeeding his election, and shall hold his office for two years thereafter, and until a successor who shall have been duly elected shall have taken the oath of office and filed an official bond pursuant to the provisions of this act.

§ 6. No town superintendent of a town shall hold the office of trustee of a school district, nor shall a person chosen a trustee, hold the office of district clerk, and no town superintendent shall hold the office of either supervisor or town clerk. Restriction.

§ 7. The third, fourth, fifth and sixth articles of title two, chapter fifteen, part first of the Revised Statutes, entitled "Of public instruction," shall be and the same are hereby amended so as to read as follows: R. S. amended.

ARTICLE THIRD.

THE POWERS AND DUTIES OF THE TOWN SUPERINTENDENT OF COMMON SCHOOLS.

§ 8. It shall be the duty of the town superintendent of common schools in each town, School districts.

1. To divide the town into a convenient number of school districts, and to regulate and alter such districts as hereinafter provided:

2. To set off by itself any neighborhood in the town adjoining to any other state of this Union, where it has been usual or shall be found convenient for such neighborhood to send their children to a school in such adjoining state: To set off certain neighborhoods.

3. To describe and number the school districts, and to deliver the description and numbers thereof, in writing, to the town clerk, immediately after the formation or alteration thereof. Districts to be numbered.

4. To deliver to such town clerk a description of each neighborhood, adjoining to any other state, set off by itself: Neighborhoods.

5. To apply for and receive from the county treasurer all moneys apportioned for the use of common schools in their town, and from the collector of the town, all moneys raised therein for the same purpose, as soon as such moneys shall become payable, or be collected: To receive school moneys.

6. To apportion the school moneys received on the first Tuesday of April, in each year, among the several school districts, parts of districts and neighborhoods separately set off, within the town, in proportion to the number of children residing in each, over the age of five and under that of sixteen years, as the same shall have appeared from the last annual reports of their respective trustees. To apportion the same.

7. If the town superintendent shall have received the school moneys of the town, and all the reports from the several school districts therein, before the first Tuesday of April, he shall apportion such moneys as above directed, within ten days after receiving all of the said reports and the said moneys: When to apportion the same.

PART I.

To sue for penalties and forfeitures.

8. To sue for and collect, by his name of office, all penalties and forfeitures imposed in this title, and in respect to which no other provision is made which shall be incurred by any officer or inhabitant of their town, and after deducting his costs and expenses, to add the sums recovered to the school moneys received by him, to be apportioned and paid in the same manner.

To except districts which do not report.

§ 9. In making the apportionment of moneys among the several school districts, no share shall be allotted to any district, part of a district, or separate neighborhood, from which no sufficient annual report shall have been received, for the year ending on the last day of December, immediately preceding the apportionment.

Teachers and library money to be designated.

§ 10. In making the apportionment of public moneys, it shall be the duty of the town superintendent to designate the respective proportions of teachers' and library money belonging to each district, and to pay over as much as is designated teachers' money, on the written order of a majority of the trustees of each district, to the teachers entitled to receive the same.

Money not to be apportioned unless school has been kept in district four months.

§ 11. No moneys shall be apportioned and paid to any district or part of a district, unless it shall appear by such report that a school had been kept therein for at least four months during the year ending at the date of such report, by a qualified teacher; that no other than a duly qualified teacher had at any time during the year for more than one month been employed to teach the school in said district; and that all moneys received during that year have been applied to the payment of the compensation of such teacher; and no portion of the library money shall be apportioned or paid to any district or part of a district, unless it shall appear from the last annual report of the trustees that the library money received at the last preceding apportionment was duly expended according to law, on or before the first day of October subsequent to such apportionment.

Qualified teachers.

§ 12. No teacher shall be deemed a qualified teacher, within the meaning of this title, who shall not have received, and shall not then hold a certificate of qualification, dated within one year, from the town superintendent of common schools for the town in which such teacher shall be employed.

Restrictions as to separate neighborhoods.

§ 13. No part of such moneys shall be apportioned or paid to any separate neighborhood adjoining another state, unless it shall appear from the report of its trustees that all moneys received by them during the year ending at the date of such report have been faithfully applied, in paying for the instruction of children residing in such neighborhood.

State superintendent may direct apportionment to be made.

§ 14. Whenever an apportionment of the public money shall not be made to any school district, in consequence of any accidental omission to make any report required by law, or to comply with any other provision of law, or any regulation, the state superintendent may direct an apportionment

to be made to such district, according to the equitable circumstances of the case, to be paid out of the public money on hand; or, if the same shall have been distributed, out of the public money to be received in a succeeding year.

[Section 15 repealed by Laws of 1859, ch. 382.]

§ 16. The provisions of the foregoing section shall extend to all cases where a school district shall have been formed at such time previous to the first day of January, as not to have allowed a reasonable time to have kept a school therein for the term of four months, such district having been formed out of a district or districts in which a school shall have been kept for four months by a teacher duly qualified, during the year preceding the first day of January.

The foregoing provisions extended to certain districts.

§ 17. All moneys apportioned by the town superintendent, to the trustees of a district, part of a district, or separate neighborhood, which shall have remained in the hands of the town superintendent for one year after such apportionment, by reason of the trustees neglecting or refusing to receive the same, shall be added to the moneys next thereafter to be apportioned and paid therewith in the same manner.

Moneys remaining in the hands of town superintendents, how to be disposed of.

Repealed and three sections substituted by Laws of 1863, ch. 378. Post, vol. 6, p. 130.

§ 18. In case any school moneys received by the town superintendent cannot be apportioned by him, for the term of two years, after the same are received, by reason of the non-compliance of all the school districts in his town, with the provisions of this title, such moneys shall be returned by him to the county treasurer, to be by him apportioned and distributed, together and in the same manner with the moneys next thereafter to be received by him for the use of common schools.

Moneys remaining in his hands for two years to be returned.

§ 19. It shall be the duty of the town superintendent in each town, between the first day of July and the first day of August in each year, to make and transmit to the county clerk a report in writing, bearing date on the first day of July, in the year of its transmission, and stating,

Report to be made yearly to county clerk.

1. The whole number of school districts and neighborhoods separately set off within the town:

Number of districts.

2. The districts, parts of districts and neighborhoods from which reports shall have been made to him, or his immediate predecessor in office, within the time limited for that purpose:

Districts, parts and neighborhoods.

3. The length of time a school shall have been kept in each of such districts or parts of districts, distinguishing what portion of that time the school shall have been kept by qualified teachers:

Time a school has been kept.

4. The amount of public moneys received in each of said districts, parts of districts and neighborhoods:

Moneys received.

5. The number of children taught in each, and the number of children over the age of five and under sixteen years, residing in each:

Children taught.

6. The whole amount of moneys received by him, or his predecessor in office, during the year ending at the date of

Whole amount of moneys received.

PART I.

How expended.

such report, and since the date of the last preceding report; distinguishing the amount received from the county treasurer, from the town collector, and from any other and what source:

7. The manner in which such moneys have been expended, and whether any, and what part remains unexpended, and for what cause:

Amount paid for teacher's wages, taxes levied, &c.

8. The amount of money paid for teachers' wages, in addition to the public money paid therefor, the amount of taxes levied for purchasing school-house sites, for building, hiring, purchasing, repairing and insuring school-houses, for fuel and supplying deficiencies in rate bills, for district libraries, or for any other purposes allowed by law, in the districts, parts of districts and neighborhoods from which reports shall have been received by him or his immediate predecessor in office, with such other information as the state superintendent may from time to time require, in relation to the districts and schools within his town.

Penalty for neglect.

§ 20. Town superintendents who neglect to furnish information required by the last preceding section, shall severally forfeit to the town for the use of the common schools therein, the sum of ten dollars, to be sued for by the supervisor of the town.

Duty of county clerk.

§ 21. In case the town superintendent in any town shall not, on or before the first day of August, in any year, make such report to the clerk of the county, it shall be his duty to give immediate notice of such neglect to the clerk of such town.

Penalty for neglecting to report.

§ 22. The town superintendent neglecting to make such report within the limited period, shall forfeit to the town, for the use of the common schools therein, the sum of ten dollars; and the share of school moneys apportioned to such town for the ensuing year, may, in the discretion of the state superintendent be withheld, and be distributed among the other towns in the same county, from which the necessary reports shall have been received.

Superintendent and sureties to be liable.

§ 23. When the share of school moneys apportioned to a town, shall thus be lost to a town, by the neglect of its town superintendent, the town superintendent guilty of such neglect, and his sureties shall be liable for the full amount so lost with interest.

Supervisors when to prosecute.

§ 24. It shall be the duty of the supervisor of the town, upon notice of such loss, from the state superintendent or county treasurer, to prosecute without delay, in the name of the town, for such forfeiture; and the moneys recovered shall be distributed and paid by such supervisor to the several districts, parts of districts, or separate neighborhoods of the town, in the same manner as it would have been the duty of the town superintendent to have distributed and paid them, if received from the county treasurer.

14 B., 64.

A just and true account to be kept.

§ 25. The town superintendent in each town, shall keep a just and true account of all school moneys received and

expended by him during each year for which he shall have been chosen, and shall lay the same before the board of auditors of town accounts at the annual meeting of such board, in each year.

§ 26. The town superintendent of common schools in each town shall, within fifteen days after the termination of his office, render to his successor in office, a just and true account, in writing, of all school moneys by him received, before the time of rendering such account, and of the manner in which the same shall have been appropriated and expended by him; and the account so rendered shall be delivered by such successor in office to the town clerk, to be filed and recorded in his office.

Accounts to be rendered to successors in office

§ 27. On rendering such account, if any balance shall be found remaining in the hands of the town superintendent, the same shall immediately be paid by him to his successor in office.

Balance of money to be paid over.

§ 28. If such balance, or any part thereof, shall have been appropriated by the town superintendent to any particular school district, part of a district or separate neighborhood, and shall remain in his hands for the use thereof, a statement of such appropriation shall be made in the account so to be rendered, and the balance paid to such successor in office, shall be paid over by him, according to such appropriation.

Provision in case part of balance has been applied.

§ 29. Such successor in office may bring a suit in his name of office for the recovery, with interest, of any unpaid balance of school moneys, that shall appear to have been in the hands of any previous town superintendent on leaving his office, either by the accounts rendered by such town superintendent, or by other sufficient proof, and in case of the death of such town superintendent, such suit may be brought against his representatives.

Successors in office may sue for balances unpaid.

§ 30. The town superintendent in each town, shall have the powers and privileges of a corporation, so far as to enable him to take and hold any property transferred to him for the use of common schools in such town.

Power to hold property for use of schools.

§ 31. The town superintendent shall be entitled to receive one dollar and twenty-five cents per day for every day actually and necessarily devoted by him in his official capacity, to the service of the town for which he may be chosen, the same to be paid in like manner as other town officers are paid.

Pay of town superintendent.

Of the duty of town clerks.

§ 32. It shall be the duty of the town clerk of each town,
1. To receive and keep all reports made to the town superintendent from the trustees of school districts, and all the books and papers belonging to the town superintendent, when required, and to file them in his office:

Town clerks to receive and keep reports, &c.

2. To receive all his estimates and apportionments of school money, and to record the same in a book to be kept for that purpose:

To receive estimates.

PART I.
To give notice about report.

3. To notify the town superintendent, upon receiving notice from the county clerk that he has not made his annual report, for the purpose of making such report.

ARTICLE FOURTH.

OF INSPECTION AND SUPERVISION BY TOWN SUPERINTENDENTS.

School inspector.

§ 33. The town superintendent in each town shall be the inspector of common schools therein.

To examine candidates.

§ 34. It shall be his duty to examine all persons offering themselves as candidates for teaching common schools in such town.

As to learning and moral character.

§ 35. In making such examination, it shall be the duty of the town superintendent to ascertain the qualifications of the candidate, in respect to moral character, learning and ability.

Certificate when to be given.

§ 36. If he shall be satisfied in respect to the qualifications of the candidate, he shall deliver to the person so examined, a certificate signed by him in such form as shall be prescribed by the state superintendent.

Certificates may be annulled.

§ 37. The town superintendent may annul any such certificate given by him or his predecessors in office, when he shall think proper, giving at least ten days' previous notice in writing to the teacher holding it, and to the trustees of the district in which he may be employed, of his intention to annul the same.

29 B., 58; 10 B., 290.

Re-examination may be required.

§ 38. The town superintendent, whenever he shall deem it necessary, may require a re-examination of all or any of the teachers in his town, for the purpose of ascertaining their qualifications to continue as such teachers.

Note to be filed with town clerk.

§ 39. The annulling of a certificate shall not disqualify the teacher to whom it was given, until a note in writing thereof, containing the name of the teacher, and the time when his certificate was annulled, shall be made by the town superintendent, and filed in the office of the town clerk.

Provision as to districts composed of parts of two or more towns.

§ 40. When any school district shall be composed of parts of two or more towns, the town superintendent of the town in which the school house of such district may be situated, shall examine into and certify the qualifications of any teacher offering to teach in such district, in the same manner as is provided by the preceding sections of this article, and may also in the same manner annul the certificate of such teacher; and no school-house shall be erected so as to stand on the division lines of any two or more towns.

Schools how often to be visited

§ 41. It shall be the duty of the town superintendent to visit all such common schools, within his town, as shall be organized according to law, at least twice a year, and oftener if he shall deem it necessary.

How to be examined, &c.

§ 42. At such visitation, the town superintendent shall examine into the state and condition of such schools, both as respects the progress of the scholars in learning, and the good order of the schools; and may give his advice and direction

to the trustees and teachers of such schools as to the government thereof, and the course of studies to be pursued therein.

CHAP. XV.

ARTICLE FIFTH.

OF THE FORMATION AND ALTERATION OF SCHOOL DISTRICTS.

§ 43. In the erection or alteration of a school district, the trustees of any district to be affected thereby, may apply to the supervisor and town clerk to be associated with the town superintendent; and their action shall be final unless duly appealed from; the compensation of the supervisor and town clerk when thus associated, shall be the same as that of the town superintendent.

Districts
how to be
erected or
altered.

§ 44. Whenever it may become necessary or convenient to form a district out of two or more adjoining towns, the town superintendent of each of such adjoining towns, or the major part of them, may form, regulate and alter such district.

Joint dis-
tricts.

§ 45. No alteration of any school district, made without the consent of the trustees thereof, shall take effect until three months after notice, in writing, shall be given by the town superintendent, to some one or more of such trustees; nor shall any alteration or regulation of an organized school district be made to take effect between the first day of December in any one year, and the first day of May following.

Alterations
of districts
when to
take effect.

§ 46. If the town superintendent in any town, shall require by notice in writing, the attendance of the town superintendents of any other town or towns, at a joint meeting for the purpose of altering a school district formed from their respective towns, and a major part of the town superintendents notified shall refuse or neglect to attend, the town superintendents attending, by a majority of votes, may call a special district meeting of such district, for the purpose of deciding on such proposed alteration; and the decision of such meeting shall be as valid as if made by the town superintendents of all the towns interested, but shall extend no further than to dissolve the district formed from such towns.

Special
district
meetings in
certain
cases may
be called.

[Sections 47, 48, 49 repealed by Laws of 1849, ch. 382.]

§ 50. When two or more districts shall be consolidated into one, the new district shall succeed to all the rights of property possessed by the districts of which it shall be composed, and when a district is annulled and portions thereof are annexed to other districts, the property of the district so annulled shall be sold by the town superintendent of the town in which the school house is located, at public auction, to the highest bidder therefor, after at least five days' public notice by notices posted in three or more public places in said town, one of which shall be within the district so annulled, and the proceeds of such sale shall be first applied so far as requisite to the payment of any just debts due from the district so annulled, and the residue thereof shall be apportioned among the taxable inhabitants of the district so annulled, in the ratio of their several assessments upon the last corrected

Provision
in cases
where two
or more
districts are
consolidated
into one

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assessment roll of the town or towns within which such district is located.

As amended by Laws of 1849, ch. 382.

Section 51 repealed by Laws of 1849, ch. 382.

Provision
respecting
moneys be-
longing to
districts
that are
annulled.

§ 52. When there shall be any moneys in the hands of the officers, of a district that is or may be annulled, or belonging to such district, the town superintendent of the town may demand, sue for and recover the same, in his name of office, and shall apportion the same equitably between the districts to which the several portions of such annulled district may have been annexed, to be held and enjoyed as district property.

Debts of
dissolved or
consolida-
ted districts
how dis-
charged.

§ 53. Whenever a school district shall be dissolved by consolidation, or otherwise, it shall be the duty of the trustees of such district to make out all the necessary rate-bills and tax-lists, and issue their warrants according to law, for the collection of all such sums of money as shall be necessary to discharge all legal liabilities of such district so dissolved or consolidated, and to call special meetings of the legal voters of such district, if it be necessary; to raise money by tax, to discharge such demands, and the collector to whom any such rate-bill or tax-list and warrant shall be delivered for collection, shall have power to execute the same in the same manner and with the like authority as though such district had not been dissolved or consolidated.

Of the powers of school district inhabitants, and of the choice, duties and powers of school district officers.

On the for-
mation of
districts
notice of
meeting to
be given.

§ 54. Whenever any school district shall be formed in any town, it shall be the duty of the town superintendent, within twenty days thereafter, to prepare a notice in writing, describing such district, and appointing a time and place for the first district meeting, and to deliver such notice to a taxable inhabitant of the district.

Notice how
promulga-
ted.

§ 55. It shall be the duty of such inhabitant to notify every other inhabitant of the district, qualified to vote at district meetings, by reading the notice in the hearing of such inhabitant, or in case of his absence from home, by leaving a copy thereof, or of so much thereof as relates to the time and place of such meeting, at the place of his abode, at least six days before the time of the meeting.

Notice
when to be
renewed.

§ 56. In case such notice shall not be given, or the inhabitants of a district shall refuse or neglect to assemble, or form a district meeting, when so notified: or in case any such district, having been formed and organized in pursuance of such notice, shall afterwards be dissolved, so that no competent authority shall exist therein, to call a special district meeting in the manner hereinafter provided; such notice shall be renewed by the town superintendent, and served in the manner above prescribed.

Penalty for
refusal or
neglect.

§ 57. Every taxable inhabitant to whom a notice of a district meeting shall have been properly delivered for service,

who shall refuse or neglect to serve the notice in the manner above in this article enjoined, shall for every such offence forfeit the sum of five dollars.

§ 58. Whenever any district meeting shall be called, in the manner prescribed in the preceding sections of this article, it shall be the duty of the inhabitants of the district, qualified to vote at district meetings, to assemble together at the time and place mentioned in the notice.

Duty of inhabitants to meet.

§ 59. Every male person of full age, residing in any school district, and entitled to hold lands in this state, who owns or hires real property in such district subject to taxation for school purposes, and every resident of such district authorized to vote at town meetings of the town in which such district or part of district is situated, and who has paid any rate-bill for teachers' wages in such district, within one year preceding, or who owns any personal property liable to be taxed for school purposes in such district, exceeding fifty dollars in value, exclusive of such as is exempt from execution, and no others, shall be entitled to vote at any school district meeting held in such district.

Persons entitled to vote at district meetings.

§ 60. If any person offering to vote at any school district meeting, shall be challenged as unqualified by any legal voter in such district, the chairman presiding at such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am an actual resident of this school district, and that I am qualified to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his vote shall be rejected.

Provision in case of persons challenged.

§ 61. Every person who shall wilfully make a false declaration of his right to vote at a district meeting, upon being challenged as herein before provided, shall be deemed guilty of a misdemeanor, and punishable by imprisonment in the county jail for a term not exceeding one year, nor less than six months, at the discretion of the court; and any person voting at any school district meeting without being qualified, shall, on conviction, be subject to a fine of ten dollars, to be sued for and recovered by the trustees of the district for its use, and with costs of suit, before any justice of the peace.

Penalty for making a false declaration.

§ 62. The inhabitants so entitled to vote, when so assembled in such district meeting, or when lawfully assembled at any other district meeting, shall have power, by a majority of the votes of those present:

Power of district meeting.

1. To appoint a chairman for the time being:
2. To adjourn from time to time, as occasion may require:
3. To choose a district clerk, three trustees, a district collector, and a librarian at their first meeting, and as often as such offices or either of them become vacated:

To appoint a chairman and adjourn

To choose officers.

4. To designate a site for a district school house:

Site.

5. To lay such tax on the taxable inhabitants of the district,

To lay a tax

PART I.

as the meeting shall deem sufficient to purchase or lease a suitable site for a school house, and to build, hire or purchase such school house, and to keep in repair and furnish the same with the necessary fuel and appendages:

6. To alter, repeal and modify their proceedings from time to time as occasion may require:

7. To vote a tax for the purchase of a book for the purpose of recording the proceedings in their respective districts.

8. With the consent of the town superintendent of the town to designate sites for two or more school houses for such district, and lay a tax on the taxable property in such district, to purchase or lease such sites, and to hire, build or purchase such school houses, and to keep in repair and furnish the same with necessary fuel and appendages, and may also in their discretion lay a tax, not exceeding twenty dollars in any one year, to purchase maps, globes, black-boards, and other school apparatus. 35 B., 37.

§ 63. The trustees chosen at the first legal meeting of any school district, shall be divided by lot into three classes, to be numbered, one, two and three; the term of office of the first class shall be one year, of the second, two, of the third, three; and one trustee only shall thereafter annually be elected, who shall hold his office for three years, and until a successor shall be duly elected or appointed. In case of a vacancy in the office of either of the trustees, during the period for which he or they shall have been respectively elected, the person or persons chosen or appointed to fill such vacancy shall hold the office only for the unexpired term.

§ 64. Every notice of a district meeting called in pursuance of this act shall state the purpose for which such meeting is called.

§ 65. In each school district an annual meeting shall be held at the time and place previously appointed; and at the first district meeting, and at each annual meeting, the time and place of holding the next annual meeting shall be fixed.

§ 66. Whenever the time for holding annual meetings in a district for the election of district officers shall pass without such election being held, a special meeting shall be notified by the clerk of such district to choose such officers; and if no such notice be given by him or the trustees last elected or appointed, within twenty days after such time shall have passed, the town superintendent or town clerk may order any inhabitant of such district qualified to vote at district meetings, to notify such meeting in the manner provided by law in case of the formation of a new district; and the officers chosen at any such special meeting, shall hold their office until the time for holding the next annual meeting.

§ 67. When the clerk and all the trustees of a school district shall have removed or otherwise vacated their office, and where the records of a district shall have been destroyed or lost, or where trustees neglect or refuse to call meetings to

To alter
proceed-
ings.

Book of
minutes.

To design-
ate sites
for school
houses, &c.

Trustees to
be divided
into three
classes.

Notice of
meeting.

Annual
meeting.

Provision
in case of
neglect to
hold annual
meeting.

In case of
vacancy in
office of
district
clerk.

choose trustees, the superintendent shall have authority to order such meetings, and the same shall be notified in the manner provided by law in the case of the formation of new districts. 35 B., 37.

§ 68. When in consequence of the loss of the records of a school district, or the omission to designate the day for its annual meeting, there shall be none fixed, or it cannot be ascertained, the trustees of such district may appoint a day for holding the annual meeting of such district.

In case of loss of the records.

§ 69. A special meeting shall be held in each district whenever called by the trustees; and the proceedings of no district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was willful and fraudulent.

Special meetings.

§ 70. No tax to be voted by a district meeting for building, hiring or purchasing a school house, shall exceed the sum of four hundred dollars, unless the town superintendent of the town in which the school house is to be situated, shall certify in writing his opinion that a larger sum ought to be raised, and shall specify the sum; in which case, a sum not exceeding the sum so specified, shall be raised; and in districts composed of parts of several towns, the certificate of a major part of the superintendents of said towns shall be necessary for such purpose.

Amount to be voted for building or hiring school house.

§ 71. Whenever a majority of all the taxable inhabitants of any school district, to be ascertained by taking and recording the ayes and noes of such inhabitants attending at any annual, special or adjourned school district meeting legally called or held, shall determine that the sum proposed and provided for in the next preceding section, shall be raised by instalments; it shall be the duty of the trustees of such district, and they are hereby authorized to cause the same to be levied, raised and collected, in equal annual instalments, in the same manner, and with the like authority that other school district taxes are raised, levied and collected, and to make out their tax list and warrant, for the collection of such instalments as they become payable according to the vote of the said inhabitants; but the payment or collection of the last instalment shall not be extended beyond five years from the time such vote was taken; and no vote to levy any such tax shall be reconsidered except at an adjourned general or special meeting to be held within thirty days thereafter, and the same majority shall be required for reconsideration as is required to levy such tax.

Tax how to be levied and collected.

§ 72. In every case where a district embraces a part of more than one town, the town superintendents of the towns so in part embraced, upon application of the trustees of such districts, or of those persons liable to pay taxes upon real property therein, shall proceed to enquire and determine whether the valuation of real property upon the several assessment rolls of said towns are substantially just as compared with each

Provision in case a district is composed of more than part of one town.

PART I.

other, so far as such district is concerned, and if determined not to be so, they shall determine the relative proportion of taxes that ought to be assessed upon the real property of the parts of such districts so lying in different towns, and the trustees of such district shall thereupon assess the proportion of any tax thereafter to be raised according to the determination of said superintendents until the same shall be altered by said superintendents upon like application, using the assessment rolls of the several towns to distribute the said proportion among the persons liable to be assessed for the same. In cases where two superintendents shall be unable to agree, they shall summon a superintendent from some adjoining town, who shall unite in such inquiry and determination.

21 B., 207. Post, p. 517.

Site of school house not to be changed unless by consent.

§ 73. Whenever a school house shall have been built or purchased for a district, the site of such school house shall not be changed, nor the building thereon be removed, as long as the district shall remain unaltered, unless by the consent, in writing, of the town superintendents of common schools, of the town or towns within which such district shall be situated, stating that in their opinion such removal is necessary; nor then, unless a majority of all the taxable inhabitants of said district to be ascertained by taking and recording the ayes and noes, at a special meeting called for that purpose, shall be in favor of such new site. Post, p. 517.

When changed former site or lot may be sold.

§ 74. Whenever the site of a school house shall have been changed as herein provided, the inhabitants of the district entitled to vote, lawfully assembled at any district meeting, shall have power by a majority of the votes of those present, to direct the sale of the former site or lot, and the buildings thereon, and appurtenances, or any part thereof, at such price, and upon such terms as they shall deem most advantageous to the district; and any deed duly executed by the trustees of such district, or a majority of them, in pursuance of such direction, shall be valid and effectual to pass all the estate or interest of such school district in the premises intended to be conveyed thereby, to the grantee named in such deed; and when a credit shall be directed to be given upon such sale, for the consideration money, or any part thereof, the trustees are hereby authorized to take in their corporate name, such security by bond and mortgage, or otherwise, for the payment thereof, as they shall deem best, and shall hold the same as a corporation, and account therefor to their successor in office and to the district, in the manner they are now required by law to account for moneys received by them; and the trustees of any such district for the time being, may in their name of office, sue for and recover the moneys due and unpaid upon any security so taken by them, or their predecessors in office, with interest and cost.

Avails how to be applied.

§ 75. All moneys arising from any sale made in pursuance of the last preceding section, shall be appropriated to the pay-

ment of the expenses incurred in procuring a new site, and in removing or erecting a school house, or either of them, so far as such application thereof shall be deemed necessary.

§ 76. The clerk, trustees, collector and librarian of each school district, shall hold their respective offices until the annual meeting of such district next following the time of their appointment.

Tenure of office.

As amended by Laws of 1849, ch. 382.

§ 77. In case the office of trustee shall be vacated by the death, refusal to serve, removal out of the district, or incapacity of any such officer, and the vacancy shall not be supplied by a district meeting within one month thereafter, the town superintendent of the town may appoint any person residing in such district to supply such vacancy. Post, p. 517.

Vacancy in office how supplied.

§ 78. In case of a vacancy in the office of school district clerk, collector or librarian, for any of the causes mentioned in the next preceding section, such vacancy may be supplied by appointment under the hands of the trustees of the district or a majority of them, and the persons so appointed shall hold their respective offices until the next annual meeting of the district, and until others are elected in their places.

In the office of district clerk or librarian.

§ 79. Every person duly chosen or appointed to any such office, who, without sufficient cause, shall refuse to serve therein, shall forfeit the sum of five dollars; and every person so chosen or appointed, and not having refused to accept, who shall neglect to perform the duties of his office, shall forfeit the sum of ten dollars.

Penalty for refusing to serve.

§ 80. Any person chosen or appointed to any such office, may resign the same by presenting his resignation to the town superintendent of the town where such officer shall reside, who is authorized for sufficient cause shown to him, to accept the same, and the acceptance of such resignation shall be a bar to the recovery of either of the penalties mentioned in the preceding section. The town superintendent accepting the resignation shall give notice thereof to the clerk, or to one of the trustees of the school district, to which the officer resigning shall belong. Post, p. 517.

Officers may resign.

§ 81. It shall be the duty of the clerk of each school district,

Clerk to record, &c.

1. To record the proceedings of his district in a book to be provided for that purpose by the district, and to enter therein true copies of all reports made by the trustees of his district, to the town superintendent.

2. To give notice of the time and place for special district meetings, when the same shall be called by the trustees of the district, to each inhabitant of such district liable to pay taxes, at least five days before such meeting shall be held, in the manner prescribed in the fifty-fifth section of this act.

To give notice of special meetings.

3. To affix a notice in writing of the time and place for any adjourned district meeting, when the same shall be adjourned for a longer time than one month, in at least four of the most

To give notice of adjourned meetings.

PART I.

Annual
meeting.
To keep and
preserve
records, &c.

public places of such district, at least five days before the time appointed for such adjourned meeting:

4. To give the like notice of every annual district meeting:
5. To keep and preserve all records, books and papers, belonging to his office, and to deliver the same to his successor in office; and in case of his neglect or refusal so to do, he shall be subject to a fine of not exceeding fifty dollars.

Of the duty of trustees of school districts.

Trustees to
call special
meetings.

§ 82. It shall be the duty of the trustees of every school district, and they shall have power,

Special,
annual and
adjourned
meetings.

1. To call special meetings of the inhabitants of such districts liable to pay taxes, whenever they shall deem it necessary and proper:

To make
out tax
lists.

2. To give notice of special, annual and adjourned meetings in the manner prescribed in the last preceding section, if there be no clerk of the district, or he be absent or incapable of acting:

To annex
list to war-
rant.

3. To make out a tax list of every district tax, voted by any such meeting, containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant, set opposite his name:

To purchase
or lease
sites for
school
houses.

4. To annex to such tax list a warrant, directed to the collector of the district, for the collection of the sums in such list mentioned:

Custody of
school
house and
employ
teacher.
Wages of
teachers
how paid.

5. To purchase or lease a site for the district school house, as designated by a meeting of the district, and to build, hire or purchase, keep in repair, and furnish such school house with necessary fuel and appendages, out of the funds collected and paid to them for such purposes:

6. To have the custody and safe keeping of the district school-house:

7. To contract with and employ all teachers in the districts:

8. To pay the wages of such teachers when qualified, by giving them orders on the town superintendents for the public money belonging to their districts so far as such moneys shall be sufficient for that purpose; and to collect the residue of such wages, from all persons liable therefor.

To divide
public
moneys.

9. To divide the public moneys received by them, whenever authorized by a vote of their district, into not exceeding two portions for each year; to assign and apply one of such portions to each term during which a school shall be kept in such district, for the payment of the teacher's wages during such term; and to collect the residue of such wages, not paid by the proportion of public money allotted for that purpose, from the person liable therefor, as above provided:

To exempt
indigent
persons.

10. To exempt from the payment of the wages of teachers, either in part or wholly, such indigent persons within the district as they shall think proper, in any one quarter or term, and the same shall be a charge upon such district:

11. To certify such exemptions and deliver the certificate thereof to the clerk of the district, to be kept on file in his office : To certify such exemption.

12. To ascertain by examination of the school lists kept by such teachers, the number of days for which each person not so exempted shall be liable to pay for instruction, and the amount payable by each person : To examine school lists.

13. To make out a rate bill containing the name of each person so liable, and the amount for which he is liable ; and to annex thereto a warrant for the collection thereof : To make out rate bills.

14. To deliver such rate bill, with the warrant annexed, after the same shall have been made out and signed by them to the collector of the district who shall execute the same in like manner with other warrants directed by such trustees to such collector for the collection of district taxes, and the collector, to whom any such rate bill and warrant shall be delivered for collection, shall possess the same power, be entitled to the same fees and subject to the same restrictions and liabilities with their bail and sureties as by this title is provided in proceedings to collect school district taxes. To deliver such bill with warrant to collector.

As amended by Laws of 1849, ch. 382.

[§ 83 repealed by Laws of 1849, ch. 382.]

§ 84. Where, by reason of the ability to collect any tax or rate bill, there shall be a deficiency in the amount raised, the inhabitants of the district in district meeting shall direct the raising of a sufficient sum to supply such deficiency by tax, or the same shall be collected by rate bill, as the case may require. Provision in case of deficiency.

Of the assessment and collection of school district taxes.

§ 85. In making out a tax list, the trustees of school districts shall apportion the same on all taxable inhabitants of the district, corporations holding property therein ; and on all banks, banking associations and individual bankers, whose place of business is within the district at the time any tax may be voted, according to the valuation of the taxable property which shall be owned or possessed by them at the time of making out such list within such district, and partly within such district and partly in an adjoining district, and upon all real estate lying within the boundaries of such district, the owners of which shall be non-residents, and which shall be liable to taxation for town or county purposes, and shall be situated within three miles of the site of the school house in such district. And upon the amount of rents reserved in any leases in fee, or for one or more lives, or for a term of years exceeding twenty-one years, and chargeable upon lands within such district, which rents shall be assessed to the person or persons entitled to receive the same as personal estate, which is hereby declared to be for the purpose of taxation for school purposes, at a principal sum the inter-

Apportionment of tax.

PART I.

est of which at the legal rate per annum shall produce a sum equal to such annual rents: and in case such rents are payable in any other thing except money, the value of such annual rents in money shall be ascertained by the trustee or trustees, and the same shall be assessed in manner aforesaid. But when it shall be ascertained that the proportion of any tax upon any lot, tract or parcel not occupied by any inhabitant or upon rents reserved, would not amount to fifty cents, the trustees, in their discretion, may omit such lot, tract or parcel or reserved rents from the tax list.

Thus amended by Laws of 1864, ch. 583. Post, vol. 6, p. 370. 22 B., 400.

Persons
liable to
taxation.

§ 86. Any person working land under a contract for a share of the product of such land, shall be deemed the possessor, so far as to render him liable to taxation therefor, in the district where such land is situate.

In cases
where an
agent im-
proves
land.

§ 87. Every person owning or holding any real property within any school district, who shall improve and occupy the same by his agent or servant, shall, in respect to the liability of such property to taxation, be considered a taxable inhabitant of such district, in the same manner as if he actually resided therein.

Tenants at
will or for
three
years.

§ 88. Where any district tax for the purpose of purchasing a site for a school house, or for purchasing or building, keeping in repair, or furnishing such school house with necessary fuel and appendages, shall be lawfully assessed and paid by any person, on account of any real property, whereof he is only tenant at will, or for three years, or for a less period of time, such tenant may charge the owner of such real estate with the amount of the tax so paid by him, unless some agreement to the contrary shall have been made by such tenant.

Provision
in cases
where land
is not occu-
pied and
improved
by owner
or agent.

§ 89. When any real estate within a district, so liable to taxation, shall not be occupied and improved by the owner, his servant or agent, and shall not be possessed by any tenant, the trustees of any district at the time of making out any tax list by which any tax shall be imposed thereon, shall make and insert in such tax list a statement and description of every such lot, piece or parcel of land so owned by non-residents therein, in the same manner as required by law from town assessors in making out the assessment rolls of their towns; and if any such lot is known to belong to an incorporated company liable to taxation in such district, the name of such company shall be specified, and the value of such lot or piece of land shall be set down opposite to such description, which value shall be the same that was affixed to such lot or piece of land in the last assessment roll of the town; and if the same was not separately valued in such roll, then it shall be valued in proportion to the valuation which was affixed in the said assessment roll to the whole tract, of which such lot or piece shall be a part.

§ 90. If any tax on the real estate of a non-resident mentioned in the tax list delivered to the collector, on the taxes upon rents reserved in any leases in fee, or for one or more lives, or for a term of years not exceeding twenty-one years, shall be unpaid at the time he is required by law to return his warrant, he shall deliver to the trustees of such district an account of the taxes so remaining due, containing a description of the lots and pieces of land upon which any taxes were imposed as the same were stated in his tax list together with the amount of the tax assessed on each, and upon making oath before any justice of the peace or judge of any court of record that the taxes mentioned in any such account remain unpaid, and that, after diligent efforts, he has been unable to collect the same, he shall be credited by said trustees with the amount thereof.

Provision in case of non-resident taxes remaining unpaid.

As amended by Laws of 1864, ch. 583. Post, vol. 6, p. 370.

§ 91. Whenever the trustees of any school district shall receive such an account of unpaid taxes from any collector, they shall compare the same with the original tax list, and if found to be a true transcript, they shall add to such account a certificate to the effect that they have compared the same with the original tax list and found it to be correct, and shall immediately transmit such account, with the affidavit of the collector, and their certificate to the treasurer of the county.

Notice thereof to be sent to county treasurer.

§ 92. Out of any moneys in the county treasury, raised for contingent expenses, the county treasurer shall pay to the trustees of the school district in which such taxes were imposed, the amount thereof so returned as unpaid.

Amount to be paid by treasurer.

§ 93. Such account, affidavit and certificate shall be laid, by the county treasurer, before the board of supervisors of the county, who shall cause the amount of such unpaid taxes, with seven per cent of the amount in addition thereto, to be levied upon the lands of non-residents on which the same were imposed, and if imposed upon the lands of any incorporated company, then upon such company, and if imposed upon rents reserved in any leases in fee, or for one or more lives, or for a term of years exceeding twenty-one years, then upon such reserved rents, in the same manner that the contingent charges of the county are directed to be levied and collected, and when collected the same shall be returned to the county treasurer to reimburse the amount so advanced, with the expense of collection.

Supervisors may cause said amount to be levied and collected.

As amended by Laws of 1864, ch. 583. Post, vol. 6, p. 370.

§ 94. Any person whose lands are included in any such account may pay the tax assessed thereon to the county treasurer, at any time before the board of supervisors shall have directed the same to be levied.

Owner may pay the same before levied.

§ 95. The same proceedings in all respects shall be had for the collection of the amount so directed to be raised by the board of supervisors as are provided by law in relation to county taxes; and upon a similar account as in the case of county taxes of the arrears thereof uncollected, being transmitted by the county treasurer to the comptroller, the same shall be paid on his warrant to the treasurer of the county advancing the same; and the amount so assumed by the state shall be collected for its benefit, in the manner prescribed by law in respect to the arrears of county taxes upon lands of non-residents; or if any part of the amount so assumed consisted of a tax upon any incorporated company, the same proceedings may also be had for the collection thereof as provided by law, in respect to the county taxes assessed upon such company.

Proceedings to be had in collecting such amounts.

§ 96. The valuation of taxable property shall be ascertained, so far as possible, from the last assessment roll of the town; and no person shall be entitled to any reduction in the valuation of such property, as so ascertained, unless he shall give notice of his claim to such reduction, to the trustees of the district, before the tax list shall be made out.

Valuation of taxable property.

35 N. Y., 202.

§ 97. In every case where such reduction shall be duly claimed, and every case where the valuation of taxable property cannot be ascertained, from the last assessment roll of the town, the trustees shall ascertain the true value of the property to be taxed, from the best evidence in their power,

Provision in case reduction is claimed.

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Exemption
in certain
cases for
school
house tax.

giving notice to the persons interested, and proceeding in the same manner as the two assessors are required by law to proceed, in the valuations of taxable property.

§ 98. Every taxable inhabitant of a district, who shall have been, within four years, set off from any other district without his consent, and shall, within that period, have actually paid in such other district, under a lawful assessment therein, a district tax for building a school-house, shall be exempted by the trustees of the district where he shall reside, from the payment of any tax for building a school-house therein.

District tax
when to be
assessed
and list
attached to
warrant.

§ 99. Every district tax shall be assessed, and the tax list thereof be made out by the trustees, and a proper warrant attached thereto, within thirty days after the district meeting in which the tax shall have been voted.

As amended by Laws of 1849, ch. 382.
17 B., 147.

Tax list and
warrant
when to be
delivered to
collector.

§ 100. It shall be the duty of the said trustees after the expiration of the said thirty days, to deliver the said tax list and warrant to the collector of the district and such collector is hereby authorized and directed, upon receiving his warrant for two successive weeks, to receive such taxes as may be voluntarily paid to him, and in case the whole amount shall not be so paid in the collector shall proceed forthwith to collect the same. He shall receive for his services on all sums paid in as aforesaid one per cent and upon all sums collected by him after the expiration of the time mentioned five per cent, and in case a levy shall be necessarily made by such collector he shall be entitled to traveling fees at the rate of six cents per mile, to be computed from the school-house in such district.

As amended by Laws of 1849, ch. 382.
18 B., 328; 17 B., 147.

If the col-
lector neg-
lect he shall
forfeit the
amount lost

§ 101. If by the neglect of any collector, any school moneys shall be lost to any school district, which might have been collected within the time limited in the warrant delivered to him for their collection, he shall forfeit to such district the full amount of the moneys thus lost, and shall account for and pay over the same to the trustees of such district, in the same manner as if they had been collected.

18 B., 328.

Forfeitures
how to be
recovered.

§ 102. For the recovery of all forfeitures, and of balances in the hands of a collector which he shall have neglected to pay over, the trustees of the district may sue in their name of office, and shall be entitled to recover the same with interest and costs; and the moneys recovered shall be applied by them in the same manner as if paid without suit.

Taxes in
joint dis-
tricts how
to be col-
lected.

§ 103. Any collector to whom any such tax list and warrant may be delivered for collection, may execute the same in any other district or town in the same county, or in any other county, where the district is a joint district, and composed of territory from adjoining counties, in the same manner, and with the like authority as in the district in which the trustees

issuing the said warrant may reside, and for the benefit of which said tax is intended to be collected, and the bail or sureties of any collector given for the faithful performance of his official duties, are hereby declared and made liable for any moneys received or collected on any such tax list and warrant, and may be prosecuted for the recovery thereof.

§ 104. It shall be the duty of the trustees of school districts, to procure for the use of their district, two bound blank books from time to time, as shall be necessary, in one of which the accounts of all moneys received and paid by the trustees, and a statement of all moveable property belonging to the district, shall be entered at large, and signed by such trustees, at or before each annual meeting in such district. In the other of the said books, the teachers shall enter the names of the scholars attending school, and the number of days they shall have respectively attended, and also the days on which such school shall have been inspected by the town superintendent; which entries shall be verified by the oath or affirmation of the teachers, and shall constitute the list on which rate bills shall be apportioned. The said books shall be preserved by the trustees as the property of the district, and shall be delivered to their successors.

Trustees to procure two blank books.

§ 105. Where the necessary fuel for the school of any district shall not be provided, by means of a tax on the inhabitants of the district, or otherwise it shall be the duty of the trustees of the district to provide the necessary fuel and levy a tax upon the inhabitants of the district to pay for the same.

Fuel how to be provided

As amended by Laws of 1849, ch. 382; §§ 106, 107, 108 repealed by same act.

§ 109. When the trustees of any school district are required or authorized by law, or by vote of their district, to incur any expense for such district, and when any expenses incurred by them are made by express provision of law a charge upon such district, they may raise the amount thereof by tax in the same manner as if the definite sum to be raised had been voted by a district meeting, and the same shall be collected and paid over in the same manner.

Expenses to be incurred by law or vote to be raised by tax.

§ 110. The warrant issued and annexed to any tax list or rate bill, shall be under the hands of the trustees of the district or a majority of them, and it shall not be necessary for the said trustees to affix their seals to any such warrant.

Warrant how issued.

§ 111. The warrants issued by the trustees of school districts for the collection of any district tax authorized to be levied, raised and collected by this title, or for the collection of any district school rate bill shall have the like force and effect as warrants issued by boards of supervisors of counties to collectors of taxes in towns; and the collector to whom any such warrant may be delivered for collection is hereby authorized and required to collect from every person in such tax list or rate bill named, the sum therein set opposite to his name, or the amount due from any person or persons specified

Effect of warrants issued by trustees.

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therein, in the same manner that collectors are authorized to collect town and county charges.

18 B., 328.

Warrants may be renewed.

§ 112. If the sum or sums of money, payable by any person named in such tax list or rate bill, shall not be paid by him, or collected by such warrant within the time therein limited, it shall and may be lawful for the trustees to renew such warrant, in respect to such delinquent person; or in case such person shall not reside within their district, at the time of making out a tax list or rate bill, or shall not reside therein at the expiration of such warrant, and no goods or chattels can be found therein whereon to levy the same; the trustees may sue for and recover the same, in their name of office.

18 B., 328.

Errors in tax lists or rate bills, how corrected.

§ 113. Whenever the trustees of any school district shall discover any error in a tax list or rate bill made out by them, they may, with the approbation and consent of the state superintendent, after refunding any amount that may have been improperly collected on such tax list or rate bill, if the same shall be required, amend and collect such tax list or rate bill, in conformity to law; and whenever more than one renewal of a warrant for the collection of any tax list or rate bill may become necessary in any district, the trustees may make such further renewal, with the written approbation of the town superintendent of the town in which the school house of said district shall be located, to be endorsed upon said warrant.

Post, p. 517.

Town superintendent may be sued.

§ 114. If the moneys apportioned to a district by the town superintendent shall not have been paid, it shall be the duty of the trustees thereof, to bring a suit for the recovery of the same, with interest, against the town superintendent in whose hands the same shall be, or to pursue such other remedy for the recovery thereof, as is or shall be given by law.

Of the annual reports of trustees, their duties and liabilities.

Trustees to make an annual report.

§ 115. The trustees of each school district shall, between the first and fifteenth days of January, in every year, make and transmit a report, in writing, to the town superintendent for such town, dated on the first day of January, in the year which it shall be transmitted.

Report to specify.

§ 116. Every such report, signed and certified by a majority of the trustees making it, shall be delivered to the town superintendent, and shall specify,

The time school has been kept.

1. The whole time any school has been kept in their district during the year ending on the day previous to the date of such report, and distinguishing what portion of the time such school has been kept by qualified teachers:

Amount of moneys received.

2. The amount of moneys received from the town superintendent during such year, and the manner in which such moneys have been expended:

No. of children.

3. The number of children taught in the district during such year:

4. The number of children residing in the district on the last day of December previous to the making of such report, over the age of five years, and under sixteen years of age, (except Indian children otherwise provided for by law,) and the names of the parents or other persons with whom such children shall respectively reside, and the number of children residing with each:

CHAP. XV.
Name and
age of each
child.

5. The amount of money paid for teachers' wages, in addition to the public money paid therefor, the amount of taxes levied in said district for purchasing school-house sites, for building, hiring, purchasing, repairing and insuring school-houses, for fuel, for supplying deficiencies in rate bills, for district libraries, or for any other purpose allowed by law, and such other information in relation to the schools and the districts as the superintendent of common schools may from time to time require.

Amount
paid for
teachers'
wages in
addition to
public
money.

As amended by Laws of 1849, ch. 382.

§ 117. It shall not be lawful for the trustees of any school district to include in their annual returns the names of any children who are supported at a county poor-house, or orphan asylum.

Poorhouse
children not
to be inclu-
ded.

§ 118. The annual reports of trustees of school districts, of children residing in their district, shall include all over five and under sixteen years of age, who shall, at the date of such report, actually be in the district, composing a part of the family of their parents or guardians, or employers, if such parents, guardians, or employers reside at the time in such district, although such residence be temporary, but such report shall not include children belonging to the family of any person who shall be an inhabitant of any other district in this state, in which such children may by law be included in the reports of its trustees.

Report to
include all
children
over 5 and
under 16
years in
district.

§ 119. The trustees of school districts shall not enumerate and include in their annual reports any Indian children residing on Indian reservations where schools are taught.

Indian chil-
dren not to
be included

§ 120. All children included in the reports of the trustees of any new school district shall be entitled to attend the schools of such district; and whenever it shall be necessary for the accommodation of the children in any district, the trustees thereof may hire, temporarily, any room or rooms for the keeping of schools therein, and the expense thereof shall be a charge upon such district.

Children in-
cluded in
new district
to attend its
school.

§ 121. Where a school district is formed out of two or more adjoining towns, it shall be the duty of the trustees of such district to make and transmit a report to the town superintendent for each of the towns out of which such district shall be formed, within the same time, and in the same manner, as is required by sections one hundred and fifteen, and one hundred and sixteen of this act; distinguishing the number of children over the age of five and under sixteen years, residing in each part of a district which shall be in a different town

Provision
respecting
districts
formed out
of two or
more towns

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from the other parts, and the number of children taught, and the amount of school moneys received from each part of the district.

Provision respecting a neighborhood set off by itself.

§ 122. Where any neighborhood shall be set off by itself, the inhabitants of such separate neighborhood shall annually meet together and choose one trustee; whose duty it shall be every year, within the time limited for making district reports, to make and transmit a report in writing, bearing date on the first day of January, in the year in which it shall be transmitted to the town superintendent of the town from which such neighborhood shall be set off, specifying the number of children over the age of five and under sixteen years, residing in such neighborhood, the amount of moneys received from the town superintendent since the date of last report, and the manner in which the same has been expended.

Penalty for signing a false report.

§ 123. Every trustee of a school district, or separate neighborhood, who shall wilfully sign a false report to the town superintendent of his town, with the intent of causing such town superintendent to apportion and pay to his district or neighborhood, a larger sum than its just proportion of the school moneys of the town, shall for each offence forfeit the sum of twenty-five dollars, and shall also be deemed guilty of a misdemeanor.

Property vested in trustees as a corporation.

§ 124. All property now vested in the trustees of any school district, for the use of schools in the district, or which may be hereafter transferred to such trustees for that purpose, shall be held by them as a corporation.

Trustees to render an account annually.

§ 125. The trustees of each school district shall, once in each year render to the district, at its annual district meeting, a just and true account in writing, of all moneys received by them respectively for the use of their district; and of the manner in which the same shall have been expended, which account shall be delivered to the district clerk, and be filed and recorded by him.

Balance in their hands to be paid over.

§ 126. Any balance of such moneys, which shall appear from such account to remain in the hands of the trustees, or either of them, at the time of rendering the account, shall immediately be paid to some one or more of their successors in office.

Penalty for neglect.

§ 127. Every trustee who shall refuse or neglect to render such account, or to pay over any balance so found in his hands, shall for each offence forfeit the sum of twenty-five dollars.

May be sued by successors.

§ 128. It shall be the duty of his successors in office to prosecute without delay, in their name of office, for the recovery of such forfeiture; and the moneys recovered shall be applied by them to the use and benefit of their district schools.

Provision for recovering former balances due.

§ 129. Such successors shall also have the same remedies for the recovery of any unpaid balance in the hands of a former trustee, or his representatives, as are given to the town superintendent against a former town superintendent and his

representatives; and the moneys recovered shall be applied by them to the use of their district, in the same manner as if they had been paid without suit.

§ 130. Every trustee of a school district who shall, while in office, neglect or refuse annually to render an account of the moneys received by him as such trustee, shall for each offence forfeit the sum of twenty-five dollars; and it shall be the duty of the town superintendent of the town in which such trustee may reside, to prosecute, without delay, in his name of office, for the recovery of such forfeiture; and the moneys recovered shall be applied by such superintendent to the use and benefit of the district school of the district to which such defaulting trustee shall belong.

Penalty for refusal or neglect to account by trustees.

§ 131. Such town superintendent shall also have the same remedies for the recovery of any unpaid balance of moneys, in the hands of such delinquent trustee, in office, as are given to the town superintendents in office, against a former town superintendent; and the moneys recovered shall be applied by such town superintendent to the use of the district to which the same may belong, and be paid over to the trustee or trustees of such district, who are not in default.

Remedy for recovering unpaid balances.

Section 132 repealed by Laws of 1849, ch. 382.

Of school district libraries.

§ 133. The taxable inhabitants of each school district in the state, shall have power when lawfully assembled at any district meeting to lay a tax on the district not exceeding ten dollars in any one year, for the purchase of a district library, consisting of such books as they shall in their district meeting direct, and such further sum as they may deem necessary for the purchase of a book case: The intention to propose such tax shall be stated in the notice required to be given of such meeting.

Money may be raised for district libraries.

§ 134. The clerk of the district, or such other person as the taxable inhabitants may at their annual meeting designate and appoint by a majority of votes, shall be the librarian of the district, and shall have the care and custody of the library, under such regulations as the inhabitants may adopt for his government.

Librarian to be appointed.

§ 135. The taxes authorized by the foregoing section to be raised, shall be assessed and collected in the same manner as a tax for building a school house.

Taxes how assessed and collected

§ 136. The sum of fifty-five thousand dollars, together with an equal sum to be raised in the towns, and directed to be distributed to the several school districts of this state, by the fourth section of chapter two hundred and thirty-seven, of the laws of eighteen hundred and thirty-eight, shall continue to be applied to the purchase of books for a district library, until otherwise directed; but whenever the number of volumes in the district library of any district, numbering over fifty children between the ages of five and sixteen years, shall ex-

Amount appropriated to purchase books for libraries.

PART I

ceed one hundred and twenty-five; or of any district numbering fifty children or less, between the said ages, shall exceed one hundred volumes, the inhabitants of the district qualified to vote therein, may, at a special or annual meeting duly notified for that purpose, by a majority of votes, appropriate the whole, or any part of the library money belonging to the district for the current year, to the purchase of maps, globes, black-boards, or other scientific apparatus, for the use of the school: And in every district having the required number of volumes in the district library, and the maps, globes, black-boards, and other apparatus aforesaid, the said moneys, with the approbation of the state superintendent, may be applied to the payment of teachers' wages.

Trustees
of district
library.

§ 137. The trustees of every school district shall be trustees of the library of such district; and the property of all books therein, and of the case and other appurtenances thereof, shall be deemed to be vested in such trustees, so as to enable them to maintain any action in relation to the same: It shall be their duty to preserve such books and keep them in repair; and the expenses incurred for that purpose, may be included in any tax list to be made out by them as trustees of a district, and added to any tax voted by a district meeting, and shall be collected and paid over in the same manner: The librarian of any district library shall be subject to the directions of the trustees thereof, in all matters relating to the preservation of the books and appurtenances of the library, and may be removed from office by them for wilful disobedience of such directions, or for any wilful neglect of duty.

Trustees
may be sued
for books
lost or injured.

§ 138. Trustees of school districts shall be liable to their successors for any neglect or omission, in relation to the care and superintendence of district libraries, by which any books therein are lost or injured, to the full amount of such loss or injury in an action on the case, to be brought by such successors in their name of office.

Regulations
respecting
the preservation
of libraries
to be furnished
to each district

§ 139. A set of general regulations respecting the preservation of school district libraries, the delivery of them by librarians and trustees to their successors in office, the use of them by the inhabitants of the district, the number of volumes to be taken by any one person at any one time or during any term, the periods of their return, the fines and penalties that may be imposed by the trustees of such libraries for not returning, for losing or destroying any of the books therein, or for soiling, defacing, or injuring them, and the conditions upon which any school district may apply the library money to the payment of teachers' wages, may be framed by the state superintendent, and printed copies thereof shall be furnished to each school district of the state; which regulations shall be obligatory upon all persons and officers having charge of such libraries, or using or possessing any of the books thereof: Such fines may be recovered in an action of debt, in the name of the trustees of any such library,

of the person on whom they are imposed, except such person be a minor; in which case they may be recovered of the parent or guardian of such minor, unless notice in writing shall have been given by such parent or guardian to the trustees of such library, that they will not be responsible for any books delivered such minor: And persons with whom such minors reside shall be liable in the same manner and to the same extent, in cases where the parent of such minor does not reside in the district.

§ 140. Any person conceiving himself aggrieved by any act or decision of any trustees of school districts, concerning district libraries, or the books therein, or the use of such books, or of any librarian, or of any district meeting in relation to their school library, may appeal to the state superintendent in the same manner as provided by law.

Right of appeal to state superintendent.

§ 141. The legal voters in any two or more adjoining districts may, in such cases as may be approved by the town superintendent, unite their library moneys and funds as they shall be received or collected, and purchase a joint library for the use of the inhabitants of such districts, which shall be selected by the trustees thereof, or by such persons as they shall designate, and shall be under the charge of a librarian to be appointed by them; and the foregoing provisions of this act shall be applicable to the said joint libraries, except that the property in them shall be deemed to be vested in all the trustees, for the time being, of the districts so united. And in case any such district shall desire to divide such library, such division shall be made by the trustees of the two districts whose libraries are so united, and in case they cannot agree, then such division shall be made by the town superintendent.

Adjoining districts may unite their library moneys and funds.

§ 142. Where, by reason of the non-compliance with the conditions prescribed by law, the library money shall be withheld from any school district, the same may be distributed among other districts complying with such conditions, or may be retained and paid subsequently to the district from which the same was withheld, as shall be directed by the state superintendent according to the circumstances of the case.

Provision when library money shall be withheld from a district.

§ 143. The state superintendent whenever requested by the trustees of a school district, under the directions of the legal voters of such district, may select a library for their use, and cause the same to be delivered to the clerk of the county in which such district is situated, at its expense.

State superintendent may select libraries for districts.

Of miscellaneous provisions connected with the foregoing articles.

§ 144. It shall be the duty of each county clerk immediately after the first day of August in every year, in case the town superintendent of any town in his county shall have neglected to make to him his annual report, to give notice of such neglect to the clerk of the town, who shall immediately notify such town superintendent for the purpose of making his report.

Provision in case of neglect to report by town superintendent.

PART I.
Penalty for
neglect or
refusal to
perform du-
ty by school
officers.

§ 145. Town superintendents, trustees, collectors and clerks of school districts, refusing or wilfully neglecting to make any report, or to perform any other duty required by law, or by regulations or decisions made under the authority of any statute, shall severally forfeit to their town, or to their district as the case may be, for the use of the common schools therein, the sum of ten dollars for each such neglect or refusal, which penalty shall be sued for and collected by the supervisor of the town, and paid over to the proper officers to be distributed for the benefit of the common schools in the town or district to which such penalty belongs; and when the share of school or library money apportioned to any town or district, or school or any portions thereof, or any money to which a town or district would have been entitled, shall be lost in consequence of any wilful neglect of official duty by any town superintendent or trustees or clerks of school districts, the officers guilty of such neglect shall forfeit to the town or district the full amount, with interest, of the moneys so lost; and they shall be jointly and severally liable for the payment of such forfeiture.

Provision
respecting
costs
of suit
brought
against
school of-
ficers.

§ 146. In any suit which shall hereafter be commenced against town superintendents or officers of school districts, for any act performed by virtue of, or under color of their offices, or for an refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the superintendent, no costs shall be allowed to the plaintiff in cases where the court shall certify that it appeared on the trial of the cause that the defendants acted in good faith. But this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the superintendent.

Provision
respecting
schools for
colored
children.

§ 147. A school for colored children may be established in any city or town of this state, with approbation of the commissioners or town superintendent of such city or town, which shall be under the charge of the trustees of the district in which such school shall be kept; and in places where no school districts exist, or where from any cause it may be expedient, such school may be placed in charge of trustees to be appointed by the commissioners or town superintendent of common schools of the town or city, and if there be none, to be appointed by the state superintendent. Returns shall be made by the trustees of such schools to the town superintendent at the same time and in the same manner as now provided by law in relation to districts; and they shall particularly specify the number of colored children over five and under sixteen years of age, attending such school from different districts, naming such districts respectively, and the number from each. The town superintendent shall apportion and pay over to the trustees of such schools, a portion of the money received by them annually, in the same manner as now provided by law in respect to school districts, allowing to such

schools the proper proportion for each child over five and under sixteen years, who shall have been instructed in such school at least four months by a teacher duly licensed, and shall deduct such proportion from the amount that would have been apportioned to the district to which such child belongs; and in his report to the state superintendent the town superintendent shall specially designate the schools for colored children in his town or city.

§ 148. The state superintendent may cause to be printed a sufficient number of forms of reports by trustees of school districts and town superintendents and of lists of pupils attending schools, and cause them to be transmitted to the several county clerks, for the use of those officers and of teachers of schools; and he shall cause title second of chapter fifteen and part first of the Revised Statutes to be printed, and shall insert therein all acts and parts of acts which have been passed by the legislature, connected with the subjects of the said title, which are now in force; and where any provisions of the said title have been altered by the subsequent acts, such provisions shall be varied so as to make them conformable to such alteration; but the original numbers of the sections shall be indicated in such mode as he shall judge proper, except as herein amended or altered. Copies of the said title so amended shall be transmitted to the town superintendent, and all other officers charged with the performance of any duty under its provisions, with such explanations and instructions as may be deemed expedient.

Duties devolved on the state superintendent.

§ 149. The superintendent of common schools is hereby authorized and directed to cause to be printed in a pamphlet form, as many copies of this act and of the forms necessary to be used under its provisions as he may deem sufficient for the information of the trustees of common schools and to cause the same to be distributed for that purpose.

This act to be printed in pamphlet and distributed.

§ 150. All such provisions of law as are repugnant to or inconsistent with the provisions of this title, are hereby repealed; but nothing herein contained shall be so construed as to impair or affect any of the local provisions respecting the organization and management of schools in any of the incorporated cities or villages or towns of this state, except as the same are affected by the next preceding section of this act.

Repeal.

CHAP. 318.

AN ACT for the permanent establishment of the Normal School.

PASSED April 12, 1848; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The treasurer shall pay on the warrant of the comptroller, to the order of the state superintendent of common

Appropriation of \$15,000.

PART I.

schools, from the general fund, a sum not exceeding fifteen thousand dollars, to be expended in the erection of a suitable building for the accommodation of the State Normal School for the instruction and practice of teachers of common schools, in the science of education and the art of teaching.

Building
how and
where
erected.

§ 2. The said building shall be erected under the direction of the executive committee of the school, upon the ground owned by the state, and lying in the rear of the geological rooms.

School
how to be
managed
and gov-
erned.

§ 3. The said school shall be as heretofore, under the supervision, management and government of the state superintendent of common schools, and the regents of the university. The said superintendent and regents shall from time to time, make all needful rules and regulations, to fix the number and compensation of teachers and others to be employed therein; to prescribe the preliminary examination, and the terms and conditions on which pupils shall be received and instructed therein; the number of pupils from the respective counties conforming as nearly as may be to the ratio of population, and to provide in all things for the good government and management of the said school. They shall appoint a board consisting of five persons, of whom the said superintendent shall be one, who shall constitute an executive committee for the care, management and government of said school, under the rules and regulations prescribed as aforesaid, whose duty it shall be from time to time to make full and detailed reports to the said superintendent and regents, and among other things to recommend the rules and regulations which they deem necessary and proper for the said school.

Annual re-
port.

§ 4. The superintendent and regents shall annually transmit to the legislature a full account of their proceedings and of the expenditures of money under this and previous acts, together with a detailed report of the progress, condition and prospects of the school.

CHAP. 382.

AN ACT to amend chapter four hundred and eighty of Session Laws of 1847, entitled, "An act relative to the office of town Superintendent of Common Schools, and amendatory of the Revised Statutes, entitled of public instruction," passed December 15, 1847.

PASSED April 11, 1849; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Repairs of
school
houses.

§ 9. The trustees of any school district may expend in the repair of the school house a sum not exceeding ten dollars in any one year, and the same may be levied and collected by a

separate tax, or added to any tax authorized to be levied and collected.

Every town superintendent, during his continuance in office, shall be deemed a qualified teacher.

Town sup't qualified teacher.

§ 10. Town superintendents are hereby authorized to administer oaths in all cases relating to school district affairs and controversies, but shall not be entitled to charge any fees therefor.

Oath relating to school affairs.

§ 11. Every teacher shall be deemed a qualified teacher, who shall hold a certificate dated within one year, from the superintendent of common schools for the town in which such teacher shall be employed, or who shall have in possession a state or county certificate of qualification, or a diploma from the state Normal school.

Who qualified teachers.

§ 13. Whenever any money is paid into the treasury of the state for or on account of the common school fund, it shall be the duty of the comptroller to credit the common school fund with interest on the sum so paid in, at the rate of six per cent per annum, for the time the same shall remain in the treasury.

Interest to be paid for school fund in treasury.

§ 14. Any person appointed to the office of town superintendent by the justices of the peace, shall hold his office till the first Monday of November following the next annual town meeting; and whenever the office of town superintendent shall be vacant for any cause, or before the time of the annual town meeting, shall be held by a person so appointed, the electors of the town at such town meeting, shall choose a town superintendent to fill such vacancy, or to supercede such appointee, and the person so elected shall enter upon the duties of the office on the first Monday of November following his election, and shall hold his office for the term of two years.

Vacancies how filled and term of office.

§ 15. Whenever it shall be satisfactorily proven to the state superintendent that any county or town superintendent, or other school officer, has embezzled the public money, or any money coming into his hands for school purposes, or has been guilty of the wilful violation of any law, or neglect of any duty or of disobeying any decision, order or regulation of the department of common schools, the state superintendent is hereby authorised to remove such officer from such office by an order under the seal of office of the secretary of state.

Removals from office

[Sections 1, 2, 3, 4, 5, 6, 7, 8 and 12 of this act amend ch. 480 of Laws of 1847. Section 16 of this act repeals sections 15, 83, 106, 107, 108 and 132 of ch. 480 of Laws of 1847, and section 3 of ch. 258, Laws of 1847.]

CHAP. 184.

AN ACT requiring the Supervisors of the several towns to take further security from the Town Superintendents of Common Schools whenever it is necessary for the safety of the public money.

PASSED April 6, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever the supervisor of any town in this state shall be of the opinion that the security given by the superintendent of common schools of his town is not sufficient for the full protection of the public against the loss of the school money that is likely to be entrusted to such superintendent, such supervisor shall require such further security as in his opinion shall be proper, in accordance with the provisions of the Revised Statutes. And in case any superintendent of common schools shall fail to furnish satisfactory security for the period of five days after written notice from the supervisor of the town requiring him to do so, the office of such superintendent shall be vacant, in the same manner as it would have been, had the person originally elected or appointed to the office failed to give security as required by law.

CHAP. 261.

AN ACT to provide for the better education of the children in the several Orphan Asylums in this state other than in the city of New York.

PASSED April 10, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

To participate in school moneys.

§ 1. The schools of the several incorporated Orphan Asylum societies within this state, other than those in the city of New York, shall participate in the distribution of the school moneys in the same manner and to the same extent in proportion to the number of children educated therein as the common schools in their respective cities or districts.

Said schools to be subject to city rules and regulations.

§ 2. The schools of said societies shall be subject to the rules and regulations of the common schools in such cities or districts, but shall remain under the immediate management and direction of the said societies as heretofore.

CHAP. 151.

AN ACT to establish free schools throughout the State.

PASSED April 12, 1851; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Common schools in the several school districts in this state shall be free to all persons residing in the district over five and under twenty-one years of age, as hereinafter provided. Persons not resident of a district may be admitted into the schools kept therein with the approbation, in writing, of the trustees thereof, or a majority of them. 33 N. Y., 335. Schools to be free.

§ 2. There shall hereafter be raised by tax, in each and every year, upon the real and personal estate within this state, the sum of eight hundred thousand dollars, which shall be levied, assessed and collected in the mode prescribed by chapter thirteen, part first of the Revised Statutes, relating to the assessment and collection of taxes, and when collected shall be paid over to the respective county treasurers, subject to the order of the state superintendent of common schools. Annual tax

§ 3. The state superintendent of common schools shall ascertain the portion of said sum of eight hundred thousand dollars to be assessed and collected in each of the several counties of this state, by dividing the said sum among the several counties, according to the valuation of real and personal estate therein, as it shall appear by the assessment of the year next preceding the one in which said sum is to be raised, and shall certify to the clerk of each county, before the tenth day of July in each year, the amount to be raised by tax in such county; and it shall be the duty of the several county clerks of this state to deliver to the board of supervisors of their respective counties, a copy of such certificate on the first day of their annual session, and the board of supervisors of each county shall assess such amount upon the real and personal estate of such county, in the manner provided by law for the assessment and collection of taxes. Money, how assessed and collected.

[Secs. 4 and 5 repealed by Laws of 1856, ch. 179.] Post, p. 519.

§ 6. Any balance required to be raised in any school district for the payment of teachers' wages, beyond the amount apportioned to such district by the previous provisions of this act, and other public moneys belonging to the district applicable to the payment of teachers' wages, shall be raised by rate bill, to be made out by the trustees against those sending to school, in proportion to the number of days and of children sent, to be ascertained by the teachers' list, and in making out such rate bill it shall be the duty of the trustees to exempt, either wholly or in part, as they may deem expedient, such indigent inhabitants as may, in their judgment, be Rate bill for balance

PART I.

entitled to such exemption, and the amount of such exemption shall be added to the first tax list thereafter to be made out by the trustees for district purposes, or shall be separately levied by them, as they shall deem most expedient.

Exemption. § 7. The same property which is exempt by section twenty-two, of article two, title five, chapter six, part three of the Revised Statutes from levy and sale under execution, shall be exempt from levy and sale under any warrant to collect any rate bill for wages of teachers of common schools.

Proviso. § 8. Nothing in this act shall be so construed as to repeal or alter the provisions of any special act relating to schools in any of the incorporated cities or villages of this state, except so far as they are inconsistent with the provisions contained in the first, second, third and fourth sections of this act.

Repeal. § 9. Chapter one hundred and forty of the Session Laws of 1849, entitled "An act establishing free schools throughout the state," and chapter four hundred and four of the Session Laws of 1849, entitled "An act to amend an act entitled 'An act establishing free schools throughout the state,'" and sections sixteen, seventeen and eighteen of the Revised Statutes relating to common schools, requiring the several boards of supervisors to raise by tax, on each of the towns of their respective counties, a sum equal to the school moneys apportioned to such towns, and providing for its collection and payment, and all other provisions of law incompatible with the provisions of this act are hereby repealed.

Ante, vol. 1, p. 415.

Publication of laws. § 10. The state superintendent of common schools shall cause to be prepared, published and distributed among the several school districts and school officers of the state a copy of the several acts now in force relating to common schools, with such instructions, digest and expositions as he may deem expedient; and the expense incurred by him therefor shall be audited by the comptroller and paid by the treasurer.

Application of money. § 11. All the moneys received or appropriated by the provisions of this act shall be applied to the payment of teachers' wages exclusively.

Reports of trustees. § 12. It shall be the duty of the trustees of the several school districts in this state to make out and transmit to the town superintendent of the town in which their respective school houses shall be located, on or before the first day of September next, a correct statement of the whole number of children residing in their district on the first day of August preceding the date of such report, between the ages of four and twenty-one; and such town superintendent shall embody such statement in a tabular form, and transmit the same to the county clerk, in sufficient season to enable the latter to incorporate the information thus obtained in the annual report required by him to be made to the state superintendent of common schools for the present year.

Enumeration of children. § 13. It shall also be the duty of the trustees of the several school districts, in their annual reports thereafter to be made,

to specify the number of children between the aforesaid ages, residing in their respective districts on the last day of December in each year, instead of the number of such children between the ages of five and sixteen.

§ 14. This act shall take effect on the first day of May next; but nothing herein contained shall be so construed as to affect provisions already made in the several school districts for the support of schools therein under existing laws for the current year.

Act when
to take ef-
fect.

CHAP. 425.

AN ACT to amend the act entitled "An act to establish free schools throughout the state."

PASSED July 9, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The act entitled an act to establish free schools throughout the state, passed April 12th, 1851, shall not be so construed as to prevent or prohibit the distribution and application of library money in the manner heretofore prescribed by law.

Library
money.

§ 2. Nothing in this act contained shall be so construed as to require the board of supervisors of each county to raise a sum of money for library purposes equal to the sum which it will receive from the state.

ib.

CHAP. 402.

AN ACT to provide for the instruction of common school teachers.

PASSED June 17, 1853; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The treasurer shall pay yearly, on the warrant of the comptroller, out of the income of the United States' deposits or literature funds, not otherwise appropriated, to the trustees of one or more academies in each county of this state, as the regents of the university shall designate, the sum of ten dollars for each scholar, not to exceed twenty-five scholars to each academy, who shall have been in such academy instructed, under a course prescribed by the said regents, during at least one-third of the academic year, in the science of common school teaching.

Appropriation to
academies.

See Laws of 1855, ch. 410. Post p. 510.

§ 2. The comptroller shall not draw his warrant for any amount, as above provided, until the trustees of such acad-

When to be
paid.

CHAP. 184.

AN ACT requiring the Supervisors of the several towns to take further security from the Town Superintendents of Common Schools whenever it is necessary for the safety of the public money.

PASSED April 6, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever the supervisor of any town in this state shall be of the opinion that the security given by the superintendent of common schools of his town is not sufficient for the full protection of the public against the loss of the school money that is likely to be entrusted to such superintendent, such supervisor shall require such further security as in his opinion shall be proper, in accordance with the provisions of the Revised Statutes. And in case any superintendent of common schools shall fail to furnish satisfactory security for the period of five days after written notice from the supervisor of the town requiring him to do so, the office of such superintendent shall be vacant, in the same manner as it would have been, had the person originally elected or appointed to the office failed to give security as required by law.

CHAP. 261.

AN ACT to provide for the better education of the children in the several Orphan Asylums in this state other than in the city of New York.

PASSED April 10, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The schools of the several incorporated Orphan Asylum societies within this state, other than those in the city of New York, shall participate in the distribution of the school moneys in the same manner and to the same extent in proportion to the number of children educated therein as the common schools in their respective cities or districts.

§ 2. The schools of said societies shall be subject to the rules and regulations of the common schools in such cities or districts, but shall remain under the immediate management and direction of the said societies as heretofore.

To participate in school moneys.

Said schools to be subject to city rules and regulations.

CHAP. 151.

AN ACT to establish free schools throughout the State.

PASSED April 12, 1851; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Common schools in the several school districts in this state shall be free to all persons residing in the district over five and under twenty-one years of age, as hereinafter provided. Persons not resident of a district may be admitted into the schools kept therein with the approbation, in writing, of the trustees thereof, or a majority of them. 33 N. Y., 335. Schools to be free.

§ 2. There shall hereafter be raised by tax, in each and every year, upon the real and personal estate within this state, the sum of eight hundred thousand dollars, which shall be levied, assessed and collected in the mode prescribed by chapter thirteen, part first of the Revised Statutes, relating to the assessment and collection of taxes, and when collected shall be paid over to the respective county treasurers, subject to the order of the state superintendent of common schools. Annual tax

§ 3. The state superintendent of common schools shall ascertain the portion of said sum of eight hundred thousand dollars to be assessed and collected in each of the several counties of this state, by dividing the said sum among the several counties, according to the valuation of real and personal estate therein, as it shall appear by the assessment of the year next preceding the one in which said sum is to be raised, and shall certify to the clerk of each county, before the tenth day of July in each year, the amount to be raised by tax in such county; and it shall be the duty of the several county clerks of this state to deliver to the board of supervisors of their respective counties, a copy of such certificate on the first day of their annual session, and the board of supervisors of each county shall assess such amount upon the real and personal estate of such county, in the manner provided by law for the assessment and collection of taxes. Money, how assessed and collected.

[Secs. 4 and 5 repealed by Laws of 1856, ch. 179.] Post, p. 519.

§ 6. Any balance required to be raised in any school district for the payment of teachers' wages, beyond the amount apportioned to such district by the previous provisions of this act, and other public moneys belonging to the district applicable to the payment of teachers' wages, shall be raised by rate bill, to be made out by the trustees against those sending to school, in proportion to the number of days and of children sent, to be ascertained by the teachers' list, and in making out such rate bill it shall be the duty of the trustees to exempt, either wholly or in part, as they may deem expedient, such indigent inhabitants as may, in their judgment, be Rate bill for balance

PART I.

entitled to such exemption, and the amount of such exemption shall be added to the first tax list thereafter to be made out by the trustees for district purposes, or shall be separately levied by them, as they shall deem most expedient.

Exemption. § 7. The same property which is exempt by section twenty-two, of article two, title five, chapter six, part three of the Revised Statutes from levy and sale under execution, shall be exempt from levy and sale under any warrant to collect any rate bill for wages of teachers of common schools.

Proviso. § 8. Nothing in this act shall be so construed as to repeal or alter the provisions of any special act relating to schools in any of the incorporated cities or villages of this state, except so far as they are inconsistent with the provisions contained in the first, second, third and fourth sections of this act.

Repeal. § 9. Chapter one hundred and forty of the Session Laws of 1849, entitled "An act establishing free schools throughout the state," and chapter four hundred and four of the Session Laws of 1849, entitled "An act to amend an act entitled 'An act establishing free schools throughout the state,'" and sections sixteen, seventeen and eighteen of the Revised Statutes relating to common schools, requiring the several boards of supervisors to raise by tax, on each of the towns of their respective counties, a sum equal to the school moneys apportioned to such towns, and providing for its collection and payment, and all other provisions of law incompatible with the provisions of this act are hereby repealed.

Ante, vol. 1, p. 415.

Publication of laws. § 10. The state superintendent of common schools shall cause to be prepared, published and distributed among the several school districts and school officers of the state a copy of the several acts now in force relating to common schools, with such instructions, digest and expositions as he may deem expedient; and the expense incurred by him therefor shall be audited by the comptroller and paid by the treasurer.

Application of money. § 11. All the moneys received or appropriated by the provisions of this act shall be applied to the payment of teachers' wages exclusively.

Reports of trustees. § 12. It shall be the duty of the trustees of the several school districts in this state to make out and transmit to the town superintendent of the town in which their respective school houses shall be located, on or before the first day of September next, a correct statement of the whole number of children residing in their district on the first day of August preceding the date of such report, between the ages of four and twenty-one; and such town superintendent shall embody such statement in a tabular form, and transmit the same to the county clerk, in sufficient season to enable the latter to incorporate the information thus obtained in the annual report required by him to be made to the state superintendent of common schools for the present year.

Enumeration of children. § 13. It shall also be the duty of the trustees of the several school districts, in their annual reports thereafter to be made,

to specify the number of children between the aforesaid ages, residing in their respective districts on the last day of December in each year, instead of the number of such children between the ages of five and sixteen.

§ 14. This act shall take effect on the first day of May next; but nothing herein contained shall be so construed as to affect provisions already made in the several school districts for the support of schools therein under existing laws for the current year.

Act when
to take ef-
fect.

CHAP. 425.

AN ACT to amend the act entitled "An act to establish free schools throughout the state."

PASSED July 9, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The act entitled an act to establish free schools throughout the state, passed April 12th, 1851, shall not be so construed as to prevent or prohibit the distribution and application of library money in the manner heretofore prescribed by law.

Library
money.

§ 2. Nothing in this act contained shall be so construed as to require the board of supervisors of each county to raise a sum of money for library purposes equal to the sum which it will receive from the state.

It.

CHAP. 402.

AN ACT to provide for the instruction of common school teachers.

PASSED June 17, 1853; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The treasurer shall pay yearly, on the warrant of the comptroller, out of the income of the United States' deposits or literature funds, not otherwise appropriated, to the trustees of one or more academies in each county of this state, as the regents of the university shall designate, the sum of ten dollars for each scholar, not to exceed twenty-five scholars to each academy, who shall have been in such academy instructed, under a course prescribed by the said regents, during at least one-third of the academic year, in the science of common school teaching. See Laws of 1855, ch. 410. Post p. 510.

Appropriation to
academies.

§ 2. The comptroller shall not draw his warrant for any amount, as above provided, until the trustees of such academies

When to be
paid.

PART I.

mies shall have furnished to the regents of the university satisfactory evidence that the course prescribed, as aforesaid, has been thoroughly pursued by a class previously designated, and instructed as common school teachers, and who, the said trustees believe, intend in good faith to follow the said occupation, and shall have obtained a certificate thereof and presented the same to the comptroller.

CHAP. 433.

AN ACT to provide for the establishment of Union Free Schools.

PASSED June 18, 1858; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Meeting of
inhabitants.

§ 1. Whenever fifteen persons, entitled to vote at any meeting of the inhabitants of any school district in the state, shall sign a call for any such meeting, to be held for the purpose of determining, by a vote of such district, whether an union free school shall be established therein, in conformity with the provisions of this act, it shall be the duty of the trustees of such district, within ten days after such call shall have been presented to them, to give public notice that a meeting of the inhabitants of such district, entitled to vote thereat, will be held for such purpose, as aforesaid, at the school house, or other more suitable place, in such district, at a day and hour in such notice to be specified, not more than twenty days after the publication of such notice. The qualifications of such inhabitants, entitled to vote at such meeting as now by law expressed, shall be sufficiently set forth in the several notices aforesaid.

30 B., 503.

Notice of
meeting to
be posted.

§ 2. The notices aforesaid, and at least five written or printed copies thereof, shall be severally posted at various conspicuous places in, and may also be published in any newspaper circulating within such districts. The trustees of any such district shall authorize and require any taxable inhabitant of the same to notify every other inhabitant (qualified to vote as aforesaid) of such meeting, to be called as aforesaid, who shall give such notification in the manner, and subject to the penalty, by law provided in the case of the formation of new school districts.

Expenses of
notice and
publishing
same.

§ 3. The reasonable expense of such notices and of their publication and service shall be chargeable upon the district, in case an union free school is established therein under the provisions of this act, to be levied and collected upon and from the said district by the trustees as in cases of taxes now levied for school purposes; and if in the event such union free

school shall not be established, then the said expense shall be chargeable upon the inhabitants signing the call, jointly and severally, to be sued for if necessary in any court having jurisdiction of the same.

§ 4. Whenever fifteen persons, entitled as aforesaid, from each of two or more adjoining districts, shall unite in a call for the consolidation of the same, and also for a meeting of the inhabitants entitled to vote, as aforesaid, in such districts, to determine whether an union free school shall be established within the limits of such districts, pursuant to the provisions of this act, it shall be the duty of the trustees of such districts, or a majority of them, to give like public notice of such meeting at some convenient place within such districts, and as central as may be, within the time and to be published in the manner set forth in the foregoing section in each of said districts. The reasonable expenses of said notices and their service, in each of said districts, to be chargeable upon them in equal shares, or on the inhabitants signing the several calls therein, as by the foregoing section is provided.

Call for consolidation of districts and determination as to union free school.

Trustees to give notice of meeting.

Expense of notice.

§ 5. Any such meeting, to be held as aforesaid, shall be organized by the appointment of a chairman and secretary, and may be adjourned from time to time if deemed by a majority vote expedient, provided any such adjournment shall not be for a longer period than ten days; and at any such meeting, where at least one-third of such inhabitants of such district are present, whenever the question whether an union free school shall be established, in pursuance of the call for such meeting, shall be determined by a two-third vote of those present and entitled to vote, as aforesaid, in the affirmative, it shall then be lawful for such meeting to proceed to the election, by ballot, of not less than three nor more than nine trustees, who shall, by the order of such meeting, be divided into three several classes, the first class to hold for one, the second for two, and the third for three years; and thereupon the office of any existing board of trustees shall cease. The said trustees and their successors in office shall constitute a board of education of and for the city, village, district or districts for which they are elected, and the designation of the place whether as of such city, village or school district number in the town of or of consolidated school districts numbers and in the town of shall be comprised in the title of said board, and the said board shall have the name and style of the board of education of (adding the designation aforesaid.) Copies of the said call, minutes of said meeting or meetings, duly certified by the chairman and secretary thereof, shall be by them or either of them transmitted and deposited, one to and with the town clerk, one to and with the clerk of the county in which said districts are located, and one to and with the state superintendent; but when at any such meetings the question as to the establishment of an

Meeting, how to be organized, and its proceedings.

Board of education.

PART I.

union free school shall not be decided in the affirmative, as aforesaid, then all further proceedings at such meeting, except a motion to reconsider or adjourn, shall be dispensed with, and no such meeting shall be again called within one year thereafter.

Classifica-
tion of
board of
education.

§ 6. Whenever said board of education shall be constituted for any district or districts whose limits correspond with those of any incorporated village or city, the three classes shall hold jointly until the next charter election for such village or city, and their regular term of services as by the foregoing section shall be computed from the several days of such charter elections. And thereafter there shall be annually elected in such villages and cities, in the same manner as and upon the same ticket with the charter officers thereof, trustees of the said union free schools, to supply the places of those whose terms by the classification aforesaid are about to expire. The term of office of all trustees elected under the provision of this act, after the first election as aforesaid, shall be three years.

Board of
education
to be bodies
corporate.

Appoint-
ment of
officers.

§ 7. The said boards of education are hereby severally created bodies corporate; and each shall at their first meeting, and at the times thereafter fixed by their by-laws as for their annual meetings, elect one of their number president, another the clerk thereof, the latter of whom shall also be the general librarian for the district. In districts other than those whose limits correspond with those of any city or incorporated village, said board shall have power to appoint one of the taxable inhabitants of their district treasurer, and another collector of the moneys raised and to be raised within the same for school purposes, who shall severally hold such appointments for one year from the date thereof, and until others are appointed in their stead, unless sooner removed by the board for cause. Such treasurer and collector shall severally, and within ten days after notice of their appointment in writing, duly served upon them, and before entering upon the duties of their offices, execute and deliver to the said board of education a bond, with such sufficient penalty and sureties as the board may require, conditioned for the faithful discharge of the duties of their respective offices. And in case such bond shall not be given within the time specified, such offices shall thereby become vacant, and said board shall thereupon make other appointments to supply such vacancies.

Treasurer
and collec-
tor.

Bond.

Corporate
authorities
to raise
money by
tax.

§ 8. The corporate authorities of any incorporated village or city, in which any such union free school shall be established, shall have power, and it shall be their duty, to raise from time to time by tax, to be levied upon all the real and personal property in said cities and villages respectively, as by law provided for the defraying of the expenses of their respective municipal governments, such sum or sums as the board of education established therein shall declare necessary (in a detailed statement, to be furnished in writing by the said board to such municipal authorities, of each and every expenditure

so declared to be necessary) for the furtherance of any of the powers vested in them by law; provided, however, that the said corporate authorities shall have power to refuse for one year any supplies other than those for the annual support of the teachers of said union free schools, and the necessary contingent expenses of the said schools. And in case the said corporate authorities shall refuse, as aforesaid, they shall communicate in writing to the said board of education their objections to each and every expenditure which they may, under the power as aforesaid, refuse to allow; and thereupon the said board of education shall cause the said communication to be published six times in at least one paper circulating in said village or city. Nothing in this section contained shall be construed to prohibit any such municipal government of any city or village from reconsidering their vote in regard to the refusal of any such supplies, as aforesaid, within the year above specified.

§ 9. A majority of the taxable inhabitants of any district, as aforesaid, other than those whose limits correspond with those of any city or incorporated village, at any annual or special meeting, held as by provisions of existing law, may authorize such acts and raise such sums of money as they shall deem expedient, for the purpose of making additions, alterations or improvements with reference to site or structures in the academy or union free school buildings, or of buying apparatus or fixtures, or paying the wages of teachers, and the necessary expenses of the school or schools; or for such other purpose pertaining to the support of such schools as the inhabitants may, by a two-third vote, approve, and they may direct the trustees to cause the sums voted to be levied and raised by installments or directly by a tax; and such trustees shall make out a tax list in the manner by law provided in cases of school district taxes, and direct such taxes and installments to be collected at the times they shall become due. And the inhabitants of such districts shall have no power to rescind the vote to raise such money, or to reduce the amount at any subsequent meeting, unless the same be done within ten days after the same shall have been first voted.

Authority of certain districts relating to improvements in site, structures, &c.

As amended by Laws of 1863, ch. 378. Post, vol. 6, p. 130.

§ 10. Whenever any school districts shall have been consolidated as aforesaid, or by any provisions of law, they shall be entitled to the same portion of the one-third of the public moneys distributed among the several school districts in pursuance of an act entitled "An act to establish free schools throughout the state," passed April 12, 1851, as they would have been entitled to if they had not been consolidated; provided that they shall not receive such portions for any longer period than for five years after the passage of this act, in the cases of all districts already consolidated; and in other cases, for five years after such consolidation shall have been effected, as aforesaid.

Consolidated districts to be entitled to public moneys.

§ 11. The said board of education, by this act established, shall severally have power:

Powers of board of education.

PART I.
By-laws.**Vacancies.**

1. To pass such by-laws as they may deem proper for the regulation and exercise of their lawful business and powers.

2. To fill any vacancy which may happen in said board, by reason of the death, removal or refusal to serve of any member or officer of said board; and the person so appointed, in the place of any such member of the board, shall hold his office until the next election of trustees, as by this act provided.

Removal of members.

3. To remove any member of their board for official misconduct. But a written copy of all charges made of such misconduct shall be served upon him, at least ten days before the time appointed for a hearing of the same; and he shall be allowed a full and fair opportunity to refute such charges before removal.

Charge of school houses, sites and lots.

4. To take charge and possession of the school houses, sites, lots, furniture, books, apparatus and all school property within their respective districts, and the title of the same shall be vested respectively in said boards of education, and the same shall not be subject to taxation for any purpose.

Real estate.

5. To take and hold, and for the use of the said schools or of any department of the same, any real estate transferred to it by gift, grant, bequest or devise, or any gift, legacy or annuity, of whatever kind, given or bequeathed to the said board, and apply the same, or the interest or proceeds thereof, according to the instructions of the donor or testator.

Superintendence and management of schools.

6. To have in all respects the superintendence, management and control of said union free schools, and to establish in the same an academical department, whenever in their judgments the same is warranted by the demand for such instruction; to receive into said union free schools any pupils residing out of said districts, and to regulate and establish the tuition fees of such non-resident pupils in the several departments of said schools, and also those of scholars residing in said districts and attending its academical department; to regulate, in accordance with the provisions of this act, the transfer of scholars from the primary to the academical departments, and from class to class as their degree of scholarship may warrant; to direct what text books shall be used therein; to provide fuel, furniture, apparatus and other necessities for the use of said schools, and to appoint such assistant librarians as they may, from time to time, deem necessary.

To employ teachers.

7. To contract with, license and employ teachers competent in the several departments of instruction, in all not less than one for every sixty scholars attending such schools, to remove them at any time for neglect of duty or immoral conduct, and to pay the wages of such teachers out of the moneys appropriated for that purpose.

General powers.

8. And generally to possess all the powers and privileges and be subject to all the duties in respect to the common schools, or the common school departments in any union free school in said districts, which the trustees of common schools

now possess or are subject to, not inconsistent with the provisions of this act, and to enjoy, whenever an academical department shall be by them established, all the immunities and privileges now enjoyed by the academies of this state.

§ 12. It shall be the duty of each of the said boards of education to have a regular meeting at least once in each quarter, and at such meetings to appoint one or more committees, each to consist of not less than two of their own number, to visit every school or department under the supervision of said board, and such committees shall visit all said schools at least twice in each quarter, and report at the next regular meeting of the board on the condition and prospects thereof.

Regular meetings of board.

§ 13. It shall also be the duty of said boards, respectively, to have reference in all their expenditures and contracts to the amount of moneys which shall be appropriated, or subject to their order or drafts, during the current year, and not to exceed that amount. And said boards shall severally apply all the public moneys apportioned to the common school districts under their charge to the departments below the academical; and all moneys from that of the literature fund, or otherwise, appropriated for the support of the academical departments, to the latter departments.

Appropriations and expenditures and application of moneys.

§ 14. All moneys raised for the use of the union free schools in any city or incorporated village, or apportioned to the same from the income of the literature, common school or United States deposit funds, or otherwise, shall be paid into the treasury of such city or village, to the credit of the board of education therein; and the funds so received into such treasury shall be kept separate and distinct from any other funds received into the said treasury. And the officer having the charge thereof shall give such additional security for the safe custody thereof as the corporate authorities of such city or village shall require. No money shall be drawn from such funds, credited to the several boards of education, unless in pursuance of a resolution or resolutions of said board, and on drafts drawn by the president and countersigned by the secretary, payable to the order of the person or persons entitled to receive such money, and stating on their face the purpose or service for which such moneys have been authorized to be paid by the said board of education.

Moneys raised for union schools, in cities and villages, to be paid to village treasurer, who shall give security.

Drafts from treasury.

§ 15. All moneys raised for the use of said union free schools, other than those whose limits correspond with those of any cities and incorporated villages, or apportioned from the income of the literature or common school or United States deposit funds, or otherwise, shall be paid to the respective treasurers of the said several boards of education entitled to receive the same, and be by them applied to the uses of said several boards, who shall annually render their accounts of all moneys received and expended by them for the use of said schools, with every voucher for the same, and certified copies of all orders of the said boards touching the same, to the town

Moneys raised for union schools other than cities and villages to be paid to treasurer of board of education.

PART I.

Academical
depart-
ment.

superintendents of the town in which said districts are severally located.

§ 16. Every academical department so to be established, as aforesaid, shall be under the visitation of the regents of the university, and shall be subject in its course of education and matters pertaining thereto (but not in reference to the buildings or erections in which the same is held, unless in cases where the buildings aforesaid are separate from those of the common school department) to all the regulations made in regard to academies by the said regents. In such departments, the qualifications for the entrance of any pupil shall be the same as those established by the said regents for admission into any academy of the state under their supervision.

Trustees of
union
schools may
become
trustees of
academies
in certain
cases.

§ 17. Wherever an union school shall be established under the provisions of this act, and there shall exist within its district an academy, the trustees thereof may, by an unanimous vote, to be attested by their signatures and filed in the office of the clerk of the county, declare their offices vacant; and thereafter the trustees of such union school shall become the trustees of the said academy, and be charged with all the duties of the former trustees, and the said academy shall be regarded as the academical department of such union school.

Repeal.

§ 18. All acts or parts of acts inconsistent with the provisions aforesaid are hereby repealed; and the provisions of this act, in reference to the establishment of academical departments, shall be as applicable to those school districts or villages where free schools have been established, by special charter, as if no such charter had been granted; but nothing in this act shall be construed to impair the charters or alter or abridge the rights or privileges of any free schools now by law established in any city of the state.

CHAP. 491.

AN ACT in relation to recoveries against school officers.

PASSED June 30, 1853; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Duty of
trustees
when recovery
is had.

§ 1. Whenever a recovery has been, or shall hereafter be had against the trustees or collector of a school district for the collection of any tax levied in the district, by reason of the tax, or any part thereof, having been imposed pursuant to the provisions of the act entitled "An act establishing free schools throughout the state," passed March twenty-nine, eighteen hundred and forty-nine, it shall be the duty of the trustee of the district, for the time being, to ascertain the amount so recovered, together with the expenses of execution thereon, the interest thereon, and all costs, charges, and expenses to which the trustees or collector have been subjected

in the defence of the action or actions, and to impose and collect, in the manner school district taxes are levied and collected, a tax sufficient to discharge the amount so ascertained, and in addition thereto, such further sum as shall be sufficient to repay to all the tax payers, who shall have paid the first mentioned tax, and who shall not have brought actions therefor, the amount by them respectively paid, with interest thereon to the time the tax to be imposed is collected.

CHAP. XV.
Tax to be collected.

§ 2. From the moneys collected by virtue of the preceding section, there shall be paid to the persons against whom such recovery shall have been had the moneys by them paid therefor, with interest, and the costs, charges, and expenses incurred by them, and so ascertained as aforesaid; and to each tax payer, who shall have paid any portion of the first mentioned tax, and who has not brought an action therefor, the amount paid by him, with interest, to the time the tax to be levied by virtue of this act is collected.

The money when collected, how to be paid out.

§ 3. Where the trustees of a school district shall have paid the amount of any such recovery, or any part thereof, from moneys belonging to the district, the amount of moneys so paid, with interest thereon, shall be replaced from the moneys to be raised under this act, instead of being paid over, as in the second section provided, and the remainder of the moneys shall be applied as hereinbefore provided.

Money paid to be replaced.

CHAP. 97.

AN ACT creating the office of state superintendent of public instruction.

PASSED March 30, 1854; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. There shall be chosen by joint ballot of the senate and assembly, on the first Tuesday in April next, and every third year thereafter, and as often as a vacancy shall occur in said office, a state superintendent of public instruction, who shall hold his office for three years, and shall be invested with all the powers, perform all the duties, and be subject to all the responsibilities now conferred or imposed by law upon the secretary of state in his capacity of superintendent of common schools.

How and when chosen.

§ 2. The superintendent so appointed shall enter immediately upon the discharge of his duties, and shall be assigned suitable and convenient rooms in the state hall, to which all books, papers and documents now in the office of the secretary of state, and pertaining to the common school department, shall be transferred. He shall receive an annual salary of two thousand five hundred dollars, payable quarterly by the treasurer on the warrant of the comptroller; and shall have

Rooms to be provided

Salary.

PART I.
Clerk hire.

power to appoint a deputy, and as many clerks, not exceeding three, as he may deem necessary for the transaction of the business of the department; but the compensation of such deputy and clerks shall not exceed three thousand dollars in any one year, and shall be payable monthly by the treasurer on the warrant of the comptroller and the certificate of the superintendent.

Seal.

§ 3. It shall be the duty of the state superintendent, as soon as may be practicable after the commencement of his official term, to devise a seal, with suitable inscriptions and device, a description of which, together with an impression thereof, shall be filed in the office of the secretary of state, which shall thereafter be the official seal of said superintendent, and such seal may be renewed from time to time as often as may be necessary; copies of all papers deposited or filed in the office of said superintendent, and all acts, orders and decisions made by him, may be authenticated under such seal, and when so authenticated shall be evidence equally, and in like manner, with the original.

Visitation
of schools
and library
institutions

§ 4. It shall be the duty of the state superintendent to visit, as often as may be practicable, such and so many of the common schools, academies and other literary institutions of the state as he may deem expedient; to inquire into the course of instruction, management and discipline of such institutions, and to report the results of such visitation and inspection annually to the legislature, with such recommendations and suggestions as he may deem suitable.

Regents of
the uni-
versity.

§ 5. The state superintendent shall be ex officio a member of the board of regents of the university, and chairman of the executive committee of the board of regents of the State Normal School.

CHAP. 228.

AN ACT in relation to school moneys.

PASSED April 15, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

School
moneys to
be paid into
the treasury

§ 1. Dues to the state, which have heretofore been paid to the secretary of state, in the capacity of superintendent of common schools, shall hereafter be paid into the state treasury; and all balances now standing to the credit of the superintendent of common schools or the superintendent of public instruction shall be immediately transferred to the credit of the treasurer of the state.

Moneys.
how trans-
ferred.

§ 2. The treasurer shall transfer from one depository to another, by a draft to be countersigned and entered by the superintendent of public instruction, any school moneys

standing to his credit, and no such moneys shall be transferred from one depository to another except by such draft.

§ 3. All moneys now authorized by law to be paid or advanced by the superintendent of common schools or the superintendent of public instruction, and all moneys which shall hereafter be authorized to be paid or advanced out of the school moneys, shall be paid by the treasurer upon the warrant of the superintendent of public instruction; but no warrant shall be drawn unless authorized by law, and shall refer to law under which it is drawn.

Moneys,
how paid
out.

§ 4. The said superintendent shall countersign and enter all checks drawn by the treasurer in payment of his warrants and all receipts for school moneys paid to the treasurer, and no such receipt shall be evidence of payment unless so countersigned.

Checks and
receipts to
be counter
signed.

CHAP. 18.

AN ACT in relation to School Moneys.

PASSED February 6, 1855; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The avails of the school tax amounting to eight hundred thousand dollars, levied in accordance with the provisions of an act entitled "An act to establish free schools throughout the state," passed April twelfth, eighteen hundred and fifty-one, and required to be paid into the treasury of the state, by chapter two hundred and twenty-eight, laws of eighteen hundred and fifty-four, are hereby appropriated to the support of schools in accordance with the provisions of law.

Tax appro-
priated.

§ 2. The comptroller is hereby authorised to withhold the payment of any moneys, to which any county may be entitled from the appropriation of the incomes of the school fund and the United States deposit fund for the support of schools, until satisfactory evidence shall be furnished to him, that all moneys required by law to be raised by taxation upon such county for the support of schools throughout the state, have been collected and paid or accounted for to the state treasurer; and whenever, in consequence of the failure of any county to pay such moneys, there shall be a deficiency of moneys in the treasury, applicable to the payment of school moneys, to which any other county may be entitled, the treasurer and superintendent of public instruction are hereby authorised to make a temporary loan of to the amount so deficient; and such loan and the interest thereon, until payment shall be made to the treasury, shall be a charge upon the county or counties in default, in proportion to the amount and duration of its or their defalcation respectively, and shall

Comptrol-
ler may
withhold
school
moneys
until county
taxes are
raised.

Temporary
loan for de-
ficiency.

ART I.

be added to the amount of state tax, and levied upon such county or counties by the board of supervisors thereof, at the next ensuing assessment, and shall be paid into the treasury in the same manner as other taxes.

§ 8. The act entitled "An act in relation to school moneys," passed April fifteenth, eighteen hundred and fifty-four, shall be limited in its application to school moneys raised by taxation.

CHAP. 410.

AN ACT to amend an act entitled, "An act to provide for the instruction of common school teachers," passed June seventeenth, eighteen hundred and fifty-three.

PASSED April 13, 1855; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Payments
for scholars.

§ 1. The treasurer shall pay yearly on the warrant of the comptroller, out of the income of the United States deposit or literature funds, not otherwise appropriated, the sum of eighteen thousand dollars for instruction in academies in the science of common school teaching under a course of study prescribed by the regents of the university, the same to be paid as follows, that is to say: To the trustees of all academies selected for that purpose by the regents of the university in this state, the sum of ten dollars for each scholar, not to exceed twenty scholars to each academy, who shall have been in such academy instructed under a course prescribed by the regents of the university during at least one-third of the academic year in the science of common school teaching, and a sum not exceeding three thousand dollars, portion of said eighteen thousand dollars, for instruction in such academies in physiology and the laws of health, and such other special subjects as the regents of the university shall deem necessary to be taught on a uniform system in all the academies so selected, as aforesaid, by a teacher or teachers on the certificate of the said regents that the said uniform course of instruction has been given by such teacher or teachers under their directions in conformity to the provisions of this act.

As amended by Laws of 1864, ch. 556. Post, vol. 6, p. 364.

When to
be made.

§ 2. The comptroller shall not draw his warrant for any amount as above provided, until the trustees of such academies shall have furnished to the regents of the university satisfactory evidence that the course prescribed, as aforesaid, has been thoroughly pursued by a class previously designated, and instructed as common school teachers, and who, the said trustees believe, intend in good faith to follow the said occupation; and said trustees shall have obtained a certificate thereof, and presented the same to the comptroller.

CHAP. 179.

AN ACT to provide for a more thorough supervision and inspection of Common Schools, and further to amend the statutes relating to public instruction in this state.

PASSED April 12, 1856; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

County
school com-
missioners.

§ 1. The boards of supervisors of the several counties in this state composing each one assembly district, and also the

boards of supervisors of each of the counties of Fulton and Hamilton, shall assemble at their usual place of meeting, on the third day of June next, at noon, and elect for their county an officer to be called school commissioner. Such officer shall be elected by ballot, and shall hold his office from the day of his election until the first day of January, one thousand eight hundred and fifty-eight.

§ 2. The boards of supervisors of the several counties in this state having more than one assembly district, except the counties of New York and Kings, shall meet on the third day of June next, at noon, and elect by ballot an officer to be called school commissioner, for each assembly district in their respective counties, who shall hold his office until the first day of January, one thousand eight hundred and fifty-eight.

Assembly district school commissioner.

§ 3. The supervisors of the towns of Flatbush, Flatland, Gravesend, Newlots, and New Utrecht, in the county of Kings, shall, on the third day of June next, meet at the usual place of meeting of the board of supervisors of said county, and elect by ballot a school commissioner for that portion of said county, not included within the city of Brooklyn, who shall hold his office from the day of election until the first day of January, one thousand eight hundred and fifty-eight, and until a successor shall have been elected by the inhabitants of said towns in the manner hereinafter provided.

Commissioner for certain towns in Kings.

§ 4. In the several counties composing each but one assembly district, the respective boards of supervisors shall have power and are hereby authorized, in their discretion, to choose two school commissioners whenever the number of school districts in the county shall exceed one hundred and forty, counting two parts of districts joint with other counties as one district. In case two commissioners shall be chosen as aforesaid, then the board of supervisors shall immediately proceed to divide the county into two districts or sections, having reference in such division, as nearly as may be, to equalize the territory and number of schools and pupils under the supervision of each commissioner, and also having reference to the density of population, and the facilities for traveling. They shall make a description of the divisions established by them, and assign the charge of one of them to each of the commissioners then chosen. But no town shall be divided in the formation of any such district. Such description shall be filed in the office of the county clerk, and a copy thereof sent by him to the superintendent of public instruction.

When two commissioners may be chosen.

County to be divided.

Divisions assigned.

Description to be filed.

§ 5. In case any two persons shall have an equal number of votes for the office of commissioner, at the election hereinbefore provided for, the clerk of the board may give a casting vote, but except for that purpose shall have no vote in the proceedings.

Casting vote by clerk of board of supervisors

§ 6. A certificate of the election of every commissioner shall forthwith be made by the clerk of the board of supervisors, and filed in the office of the county clerk, and a duplicate

Certificate of election to be filed with county clerk and

PART I.
state super-
intendent.
Notice to
school com-
missioner.

Term of
office to
expire in
1886.

To be elect-
ed at the
general
election
afterwards.

When to
enter into
office.

Length of
term.

May be
transferred.

Powers
and duties.

To visit and
examine
schools, &c.

Not to act
as agent for
authors, &c.

thereof be sent by mail to the superintendent of public instruction: and the county clerk, upon the filing of such certificate, shall forthwith give notice, in writing, to the school commissioners of their election, who shall, within ten days after such notice, take and subscribe the constitutional oath of office, and shall give notice of their acceptance to the superintendent of public instruction, and enter upon their duties immediately. They shall hold their office until the first day of January, one thousand eight hundred and fifty-eight, and until their successors shall have taken and filed with the county clerk the like oath of office.

§ 7. At the annual general election, held in the year one thousand eight hundred and fifty-seven, and every three years thereafter, there shall be elected on a separate ballot, to be endorsed "school commissioner," in the several assembly districts, and in the sections of single assembly districts, formed and designated as hereinbefore provided, and in the towns of Kings county not included in the city of Brooklyn, a school commissioner for each district or section. All the provisions of law relating to the mode of voting and of canvassing the votes for the county officers, shall apply to and govern the election of such commissioners. The persons so elected shall enter into office on the first day of January, one thousand eight hundred and fifty-eight, and shall hold office for three years, and until their successors shall have qualified according to law. Each of such commissioners, in counties where more than one is elected, shall take charge of that one of the assembly districts, or that one of the sections, into which any county having but one assembly district may be divided, for which he shall have been elected; but may, upon the written request of the commissioner in charge of any other section of the same county, perform any duties therein, which he might discharge in the section of his own residence.

41 B., 515.

§ 8. Every commissioner shall have power, and it shall be his duty:

1. To visit and examine all the schools and school districts committed to his charge, as often in each year as shall be practicable; to inquire into all matters relating to the management, the course and mode of instruction, the books, studies and discipline of such schools, the condition of the school houses, out-buildings and appendages, and of the districts generally; to advise and counsel with the trustees and other officers of school districts, in relation to their duties, and particularly in relation to the construction, ventilation and warming of school houses, and to the improving and adorning of the school grounds connected therewith, and to recommend to such trustees and to the teachers employed by them, the proper studies, discipline and management of the schools, the course of instruction to be pursued, and to examine into the condition of the district libraries. No commissioner shall act as agent for any author, publisher or bookseller, or shall directly

CEAP. XV.

or indirectly receive any gift, emolument or reward for his influence in recommending the use of any book or school apparatus or furniture of any kind whatever. Any act herein prohibited shall be deemed a violation of his official oath, and any offer or solicitation to such an act, shall be considered an attempt to bribe and corrupt a public officer.

2. To examine persons offering themselves as candidates for teachers of public schools, in order to determine and to decide upon their capacity and to grant them certificates of qualification, in such forms as shall be prescribed by the superintendent of public instruction, which certificates, according to the terms thereof, shall be evidence of the qualifications, of such teachers in the district of the county, to which such commissioner shall be elected, or to which he shall be assigned in accordance with the provisions of this act.

To examine candidates.

3. To annul any certificate granted to any teacher by him or by his predecessor, or by any town or county superintendent, whenever such teacher shall have been found deficient, and to examine upon reasonable notice and opportunity of defence to the teacher, into all charges affecting the moral character of the teacher, which may be presented as a cause for annulling a certificate by whomsoever such certificate may have been granted, and he shall report every instance of such examination, the evidence which may be presented in the case to the superintendent of public instruction, immediately after the conclusion of such examination.

To annul certificate, &c.

4. To organize and conduct at least once in each year, in his own district or in concert with the commissioner or commissioners of one or more adjoining districts in the same county, a teachers' institute, and to induce if possible all the common school teachers in his district to be present and take part in the exercises of such institute; and to perform the duties imposed by chapter three hundred and sixty-one, laws of eighteen hundred and forty-seven, upon town superintendents, and to give the notice therein required to be given by the county clerk;

To organize teachers' institutes.

5. And generally by all means in his power to promote sound education, elevate the character and qualification of teachers, improve the means of instruction and advance the interests of the schools committed to his charge. Post, p. 528.

General powers.

§ 9. Any commissioner may at any time resign his office to the clerk of the county in which he was elected, and in case of vacancy from such cause or by death, removal from office or from the county, or refusal to accept, the county clerk shall give immediate notice to the county judge of said county, who shall appoint a successor to fill such vacancy till the next following general election, when a successor shall be chosen by the electors as hereinbefore provided. 41 B., 515.

May resign.

§ 10. The commissioners shall be subject to such rules and regulations as the superintendent of public instruction shall from time to time prescribe, and appeals from their acts and

County judge to fill vacancy.

Superintendent of public instruction to prescribe rules, &c.

PART I.

Annual
reports.

decisions may be made to him in the same manner and with like effect as in cases now provided by law. They shall make reports annually to the superintendent of public instruction, at such times as shall be appointed by him, containing such information as he shall require: and for that purpose the annual reports of the trustees of school districts shall be made to them, and be deposited with the town clerks of the town in which the school house of each district is situated, from whom the said commissioners shall obtain the same. Henceforth the trustees of joint districts, composed of territory lying in two or more towns in the same county, shall be required to make but one annual report, in such form as the state superintendent of public instruction shall prescribe. The reports of the trustees after the commissioner shall have made his abstract therefrom, shall be properly arranged, filed, and together with a copy of his own annual report, shall be deposited in the office of the county clerk for safe keeping. The county clerks shall not be required to make returns or abstracts of such reports.

Trustees of
joint dis-
tricts to
make but
one annual
report.

Reports,
where filed.

County
clerks not
to make re-
turns.
Commis-
sioners may
take affi-
davits.

§ 11. Every commissioner shall have power to take affidavits, and administer oaths in all matters pertaining to common schools, but without charge or fee, and under the direction of the superintendent of public instruction may hear and report to him the testimony in all cases of appeals.

Salary.

§ 12. Every commissioner chosen or elected in pursuance of this act shall receive an annual salary of at least five hundred dollars, to be paid out of the income of the United States deposit fund, appropriated to this purpose or to the support of common schools, and it shall be the duty of the superintendent of public instruction to apportion to each county, in his annual apportionment of the income of said fund thus appropriated, five hundred dollars for the salary of each commissioner of common schools in said county, created under authority of this act.

How paid.

Boards of
supervisors
may in-
crease their
salaries.

§ 13. The several boards of supervisors, whenever, in their opinion, the interests of education in their respective counties will be promoted thereby, may increase the salary of any commissioner to such sum as they may deem reasonable and just; but the supervisors of any wards in any city not included in a school commissioner's district, shall not vote upon such questions; the increase over and above the five hundred dollars payable to him from the United States deposit fund to be a charge upon the county or district over which such commissioner may have jurisdiction; and the same shall be assessed annually upon the towns composing such county or district, rateably, according to the corrected valuations of the real and personal estate of such towns.

Increase to
be a charge
on the
county.

Expenses,
how audi-
ted.

§ 14. The boards of supervisors are hereby authorized and required to audit and allow to such commissioners such sums as they may have incurred for necessary expenses by them in

the performance of their official duties to an amount not exceeding one hundred dollars.

§ 15. The superintendent of public instruction shall also apportion to each of the cities in this state, having, under special acts, a superintendent of common schools, or whose boards of education choose a clerk doing the duty of supervision under their direction, out of the income of the United States deposit fund appropriated for this purpose, or for the support of common schools, the sum of five hundred dollars for each member of assembly to which such city shall be entitled according to the unit of representation adopted by the legislature, to be paid into the city treasury and expended as required by law for the support of schools.

\$500 to be appropriated to cities in certain cases.

§ 16. The several cities in this state which under special acts already elect superintendents of common schools, or whose boards of education choose clerks doing the duty of supervision under the direction of the board of education, shall not be included in any commissioner's district created by this act or authorized to be formed by the board of supervisors; and the several boards of supervisors in counties in which such cities are joined to towns in the formation of an assembly district, may divide the county, exclusive of such cities, into school commissioners' districts as they may deem advisable, but no town shall be divided in forming such districts.

Special divisions.

§ 17. Whenever the board of supervisors of any county in this state shall have appointed a commissioner or commissioners in pursuance of this act, and such officers shall have taken the constitutional oath of office, henceforth, and after that time, the office of town superintendent of common schools for the several towns in such county shall be abolished, and each town superintendent shall forthwith pay over to the supervisor of his town all school moneys unexpended, with a full statement of all moneys received and paid out by him since the last annual report was made by him or his predecessor, and of the moneys remaining in his or his predecessor's hands at the time of making such report. He shall also specify in such statement the last apportionment made to the school districts, separate neighborhoods and parts of joint districts in his town, and shall also state specifically the part of such apportionment paid to each and the balance due to each. If it shall appear that any former town superintendent has neglected or refused to render to his successor in office such full statement of all moneys received and paid out by him during his official term or terms, it shall be the duty of the commissioners created under this act or any one of them, to require such delinquent town superintendent, by notice in writing, to make such return to the supervisor of his town within twenty days from the date of such service; and if, after having been duly served with such notice, he still neglects or refuses to make such return as aforesaid,

Office of town superintendent abolished.

Moneys to be paid over to supervisor.

Delinquencies.

How treated.

PART I.

or show good cause why he has not done so, he shall be guilty of a misdemeanor, and it shall be the duty of the supervisor of the town, or of any commissioner created by this act, to sue for and recover all moneys in the hands of any defaulting town superintendent. 35 B, 37.

Embezzlement.

§ 18. Every supervisor who shall embezzle any of such moneys, or any moneys that shall come into his hands by virtue of this act shall be deemed guilty of a misdemeanor.

Public school moneys to be paid to supervisor, Supervisor to give bond.

§ 19. The public school moneys heretofore paid to town superintendents, or on their orders, shall be paid only to the supervisors of the towns.

§ 20. Before the county treasurer of any county shall pay over to the supervisor of any town in said county the public school moneys apportioned for the support of schools therein, he shall require the said supervisor to deposit with him a bond to the treasurer in behalf of the town, executed by said supervisor, with two or more sufficient sureties, to be approved by said treasurer, in the penalty of double the amount of said school moneys conditioned for the faithful disbursement, safe keeping and accounting for such moneys, and of all other school moneys that may come into his hands from any other source, and whenever the said bond shall be forfeited, it shall be the duty of the county treasurer to prosecute for the penalty of the same, in his own name, in behalf of the town, and the money recovered shall be paid over to the supervisor of the town succeeding the supervisor in default.

Manner of disbursement.

§ 21. The said supervisors, in the disbursement of and accounting for school moneys which shall come into their hands, shall be governed by the same laws and rules as are now applicable to town superintendents. Each of the said supervisors shall keep a just and true account of all the school moneys received and disbursed by him during each year, and shall lay the same, with proper vouchers, before the board of town auditors, at each annual meeting of such board.

Supervisor to render an account to his successor.

§ 22. The said supervisor shall, within fifteen days after the termination of his office, render to his successor in office a just and true account, in writing, of all school moneys by him received before the time of rendering such account, and of the manner in which the same or any part thereof shall have been expended by him; and the account so rendered shall be delivered by such successor in office to the town clerk, to be filed and recorded in his office; and the town clerk shall forthwith send a copy of such account to the school commissioner. Each supervisor shall keep a bound blank book, in which all his receipts and disbursements of school moneys shall be entered by him, specifying from whom, and the purpose for which they were received; and to whom, and the purpose for which they were paid out. The cost of such book shall be a charge upon his town; and said book shall be delivered to his successor in office.

Book for receipts and disbursements to be kept.

Balance on hand paid

§ 23. On rendering such account, if any balance shall be

found remaining in the hands of such supervisor, the same shall be immediately paid by him to his successor in office, who shall hold it subject to the order of the trustees of any school districts, parts of district or to the trustee of any separate neighborhood, to which the same may have been apportioned, and which shall be entitled to receive it.

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to successor.

§ 24. It shall be the duty of the supervisor, by his name of office, to sue for and recover all penalties and forfeitures imposed by any act relating to schools in respect to which no provision is made, or for any default or omission by any town superintendent, or any other town officer or school district officer or officers, now required to be sued for by the town superintendent; and after deducting his costs and expenses, shall report the balance in his hands to the commissioner, who shall apportion the same to the district or districts to which the same may belong.

Penalties,
how sued
for.

§ 25. All the duties and requirements of law now imposed upon town superintendents, in reference to the formation, alteration, dissolution, consolidation and annulling of school districts, the building of school houses, the selection and change of sites, and in relation to the sale of school district property, and the disposal and apportionment of the moneys arising therefrom, are hereby imposed upon the school commissioner in respect to the several towns within his jurisdiction; and he shall pay over the said moneys to the supervisors, to be by them paid to the districts or parts of districts which may be entitled to receive the same.

Duties of
town super-
intendents
transferred
to school
commissioners.

§ 26. All the powers and duties imposed upon town superintendents by sections seventy-two, seventy-three, seventy-seven, eighty, and one hundred and thirteen, of chapter four hundred and eighty, laws of one thousand eight hundred and forty-seven, are hereby imposed upon the supervisors of the towns.

Powers and
duties of
town super-
intendents
under act of
1847 im-
posed on
supervisors

35 B., 37. Post, p. 478.

§ 27. All the powers and duties formerly possessed and exercised by the trustees of the gospel and school lots, and subsequently by section one of chapter one hundred and eighty-six, laws of one thousand eight hundred and forty-six, conferred upon town superintendents of common schools, are hereby conferred and imposed upon the supervisors of towns, and shall hereafter be exercised and performed by them.

Powers in
relation to
gospel and
school lots.

§ 28. It shall be the duty of the town clerk of each town :

Town
clerks and
their duties

1. To receive from the present town superintendents, all books, maps and papers appertaining to his office, and to file and keep them in the town clerk's office.

2. To receive from the supervisor the certificates of apportionments of school moneys for the town, and record them in a book to be kept for that purpose.

3. To notify the trustees of the school districts when such estimates and appropriations are filed in his office.

4. To see that the trustees of common schools make and file with him their annual reports within the time prescribed by law.

PART I.

5. To distribute to the trustees of school districts all blanks and circulars which shall be delivered or forwarded to him by the commissioner, for that purpose.

6. To receive from the supervisor, and record in a book kept for that purpose, the annual account of the receipts and disbursements of school moneys required to be submitted to the town auditors, and filed with the said clerk, and to send a copy thereof by mail to the commissioner.

Powers transferred to supervisors.

§ 29. All the powers and duties imposed upon the commissioners of common schools, by the act passed April the twenty-seventh, one thousand eight hundred and twenty-nine entitled "An act relative to moneys in the hands of overseers of the poor," passed April twenty-seventh, one thousand eight hundred and twenty-nine, are hereby imposed upon the supervisors of towns. Post, Vol. 4, p. 1.

Apportionment of one-third of income of U. S. deposit fund by superintendent of public instruction.

§ 30. It shall be the duty of the state superintendent of public instruction, on or before the first day of January of each and every year, after deducting any portion hereinbefore required to be apportioned for and on account of supervision, to apportion and divide one-third of the remainder of the income of the United States deposit fund appropriated by law for the support of schools, and one-third of all other moneys thus appropriated, among the several school districts and separate neighborhoods in this state, from which reports shall have been received, in accordance with law, in the following manner, viz: to each separate neighborhood belonging to a school district in some adjoining state, there shall be apportioned and paid a sum of money equal to thirty-three cents for each child in such neighborhood (between the ages of four and twenty-one); but the sum so to be apportioned and paid to any such neighborhood, shall in no case exceed the sum of twenty-four dollars; and the residue of such one-third shall be apportioned and divided equally among the school districts; and the state superintendent of public instruction shall, by proper regulations and instructions to be prescribed by him, provide for the payment of such moneys to the trustees of such separate neighborhoods and school districts.

Apportionment of the remaining two-thirds of above fund.

§ 31. It shall be the duty of the state superintendent of public instruction, on or before the first day of January of each and every year, to apportion and divide the remaining two-thirds of the remainder specified in the preceding section, among the several counties, according to population, as the same shall appear from the last preceding state or United States census; but in counties in which are situated cities having a special school act, he shall apportion to each city the part to which it shall be entitled, and to the remainder of the county the part to which it shall be entitled; and he shall certify such apportionments and every other apportionment, to the county clerk of the county to which they shall be made, and to the school commissioner or school commissioners of such county, and the school commissioner or school commis-

sioners jointly, in counties having more than one commissioner shall forthwith proceed to set apart to each separate neighborhood and school district within his or their jurisdiction, the amount apportioned to each by the state superintendent of public instruction. The commissioner or commissioners shall then proceed to divide and apportion the balance of the public school moneys (apportioned according to population for the support of schools within his or their jurisdiction) to the separate neighborhoods, school districts and parts of school districts, joint with parts in any city or in a town in an adjoining county, in proportion to the number of children in each, (between the ages of four and twenty-one) as the same shall appear from the report of the trustees of the last preceding school year; and he or they shall specify in such apportionment, the amount apportioned to each for library purposes and the amount for teachers' wages. But no money shall be apportioned or set apart by him or them to any separate neighborhood or school district or part of a district (joint with a part in any city, or with a part in a town in an adjoining county), unless it shall appear from a report of the trustees thereof for the last preceding school year that a public school was supported by the inhabitants thereof, for at least six months during the year ending with the date of such report, by a duly qualified teacher, except by special permission of the state superintendent of public instruction. The commissioner or commissioners aforesaid shall then set apart to each town within his or their jurisdiction, the money so set apart and apportioned by them to each separate neighborhood therein, to each school district, the school-house of which is therein, and to each part of a joint district therein, the school-house of which is located in a city or in a town in an adjoining county. A certificate shall then be made by the commissioner or commissioners, showing the amount apportioned to each separate neighborhood, school district, and part of a district, joint as hereinbefore specified, within his or their jurisdiction, and it shall also show the towns in which they are respectively situated. One copy of said certificate, signed by the commissioner or commissioners shall be sent to the county treasurer, and one copy to the state superintendent of public instruction; and to the supervisor of each town, the commissioner or commissioners shall certify the amount of school moneys so apportioned, which he shall be entitled to receive from the county treasurer, and the portions thereof to be paid by him for library purposes and for teachers' wages, to each district, separate neighborhood, and part of a district (joint with a part in a city) or with any town in an adjoining county. The supervisor shall forthwith make a copy of such certificate for his own use, and deposit the original in the office of the town clerk of his town, and the share of the several towns so apportioned shall be paid over to the supervisors on and after the first Tuesday of February of each year. Sections four and five of the act

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5. To distribute to the trustees of school districts all blanks and circulars which shall be delivered or forwarded to him by the commissioner, for that purpose.

6. To receive from the supervisor, and record in a book kept for that purpose, the annual account of the receipts and disbursements of school moneys required to be submitted to the town auditors, and filed with the said clerk, and to send a copy thereof by mail to the commissioner.

Powers transferred to supervisors.

§ 29. All the powers and duties imposed upon the commissioners of common schools, by the act passed April the twenty-seventh, one thousand eight hundred and twenty-nine entitled "An act relative to moneys in the hands of overseers of the poor," passed April twenty-seventh, one thousand eight hundred and twenty-nine, are hereby imposed upon the supervisors of towns. Post, Vol. 4, p. 1.

Apportionment of one-third of income of U. S. deposit fund by superintendent of public instruction.

§ 30. It shall be the duty of the state superintendent of public instruction, on or before the first day of January of each and every year, after deducting any portion hereinbefore required to be apportioned for and on account of supervision, to apportion and divide one-third of the remainder of the income of the United States deposit fund appropriated by law for the support of schools, and one-third of all other moneys thus appropriated, among the several school districts and separate neighborhoods in this state, from which reports shall have been received, in accordance with law, in the following manner, viz: to each separate neighborhood belonging to a school district in some adjoining state, there shall be apportioned and paid a sum of money equal to thirty-three cents for each child in such neighborhood (between the ages of four and twenty-one); but the sum so to be apportioned and paid to any such neighborhood, shall in no case exceed the sum of twenty-four dollars; and the residue of such one-third shall be apportioned and divided equally among the school districts; and the state superintendent of public instruction shall, by proper regulations and instructions to be prescribed by him, provide for the payment of such moneys to the trustees of such separate neighborhoods and school districts.

Apportionment of the remaining two-thirds of above fund.

§ 31. It shall be the duty of the state superintendent of public instruction, on or before the first day of January of each and every year, to apportion and divide the remaining two-thirds of the remainder specified in the preceding section, among the several counties, according to population, as the same shall appear from the last preceding state or United States census; but in counties in which are situated cities having a special school act, he shall apportion to each city the part to which it shall be entitled, and to the remainder of the county the part to which it shall be entitled; and he shall certify such apportionments and every other apportionment, to the county clerk of the county to which they shall be made, and to the school commissioner or school commissioners of such county, and the school commissioner or school commis-

sioners jointly, in counties having more than one commissioner shall forthwith proceed to set apart to each separate neighborhood and school district within his or their jurisdiction, the amount apportioned to each by the state superintendent of public instruction. The commissioner or commissioners shall then proceed to divide and apportion the balance of the public school moneys (apportioned according to population for the support of schools within his or their jurisdiction) to the separate neighborhoods, school districts and parts of school districts, joint with parts in any city or in a town in an adjoining county, in proportion to the number of children in each, (between the ages of four and twenty-one) as the same shall appear from the report of the trustees of the last preceding school year; and he or they shall specify in such apportionment, the amount apportioned to each for library purposes and the amount for teachers' wages. But no money shall be apportioned or set apart by him or them to any separate neighborhood or school district or part of a district (joint with a part in any city, or with a part in a town in an adjoining county), unless it shall appear from a report of the trustees thereof for the last preceding school year that a public school was supported by the inhabitants thereof, for at least six months during the year ending with the date of such report, by a duly qualified teacher, except by special permission of the state superintendent of public instruction. The commissioner or commissioners aforesaid shall then set apart to each town within his or their jurisdiction, the money so set apart and apportioned by them to each separate neighborhood therein, to each school district, the school-house of which is therein, and to each part of a joint district therein, the school-house of which is located in a city or in a town in an adjoining county. A certificate shall then be made by the commissioner or commissioners, showing the amount apportioned to each separate neighborhood, school district, and part of a district, joint as hereinbefore specified, within his or their jurisdiction, and it shall also show the towns in which they are respectively situated. One copy of said certificate, signed by the commissioner or commissioners shall be sent to the county treasurer, and one copy to the state superintendent of public instruction; and to the supervisor of each town, the commissioner or commissioners shall certify the amount of school moneys so apportioned, which he shall be entitled to receive from the county treasurer, and the portions thereof to be paid by him for library purposes and for teachers' wages, to each district, separate neighborhood, and part of a district (joint with a part in a city) or with any town in an adjoining county. The supervisor shall forthwith make a copy of such certificate for his own use, and deposit the original in the office of the town clerk of his town, and the share of the several towns so apportioned shall be paid over to the supervisors on and after the first Tuesday of February of each year. Sections four and five of the act

PART I.

entitled "An act to establish free schools throughout the state," passed, April 12, one thousand eight hundred and fifty-one, are hereby repealed. Ante, p. 497.

Salaries of school commissioners, how paid.

§ 32. The amount of money necessary to pay the salaries of the school commissioners, and which shall be annually apportioned by the state superintendent of public instruction from the United States deposit fund for that purpose, as heretofore provided, shall be drawn from the income of that fund upon the warrant of the Comptroller, and retained in the treasury to be paid out by the treasurer to the several school commissioners, upon the order of the said state superintendent.

CHAP. 180.

AN ACT to amend the law of taxation for the support of Schools, and to change the mode of distribution of School Moneys.

PASSED April 12, 1856; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

School money, how raised and distributed.

§ 1. There shall hereafter be raised by tax, in the present and each succeeding year, upon the real and personal estate of each county within the state, three-fourths of a mill upon each and every dollar of the valuation of such estate, for the support of common schools in this state, to be apportioned and distributed by the superintendent of public instruction, in the same manner as the proceeds of the state tax of eight hundred thousand dollars, in lieu of which this tax is substituted, and now required to be apportioned and distributed, except as hereinafter provided. The board of supervisors of each county shall assess such amount upon the real and personal estate of such county, in the manner provided by law for the assessment and collection of taxes; and shall, annually, as soon as the aggregate valuation of the real and personal estate of their county shall be ascertained, give immediate notice thereof to the superintendent of public instruction. No clerk of any board of supervisors, or other person who may make out the tax list or assessment rolls of any town, shall omit to include and apportion among the moneys to be raised thereby, the amount hereby required to be raised for the support of schools, by reason of the omission of the board of supervisors to pass a resolution for that purpose.

Duty of supervisors.

Districts entitled to money.

§ 2. Every district in this state in which a school shall have been taught by a qualified teacher for the time of six months, or by successive teachers, whose periods of actual instruction amount in the aggregate to six months, and no other shall be enumerated for the purpose of the distribution of so much of

the school money as shall be divided equally among the districts.

§ 3. Every district school in which two or more qualified teachers are actually employed at the same time for the period of six months or over, shall be enumerated as so many districts as there have been teachers thus employed during the year, whether any one or more of them had been continuously employed for the whole period of six months or not, providing the number of teachers actually employed shall have been at no time less than the number at which the district is enumerated. Pupils employed as monitors or otherwise, shall not be deemed teachers for the purpose of such enumeration.

District
schools.

CHAP. 186.

AN ACT to provide for the distribution of standard works of American Authors among the libraries of district schools.

PASSED April 12, 1856.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever the superintendent of public instruction shall receive from any author or publisher two copies of any book published by him or them, a copyright of which shall have been duly entered under the laws of the United States, with an offer on the part of such publisher to furnish such book to the district school libraries of the state and the Packer collegiate institute of the city of Brooklyn at a price not exceeding two-thirds of the retail price of said book, which price shall be specified in said offer, it shall be the duty of said superintendent to place one of said copies in the state library at Albany, retaining the other for his own use, and to make a complete list with the prices annexed, of such of said books as in his opinion are proper and suitable to be placed in the district school libraries of the state; and thereupon, on or before the first Tuesday of December in each year, the said superintendent shall cause printed circulars, addressed to the trustees of common schools and the trustees of the Packer collegiate institute of the city of Brooklyn to be forwarded by mail or otherwise to the several town superintendents, containing the titles and prices of said books so selected and specified, with such remarks as the said superintendent may deem useful, together with a statement of the estimated amount of library money to be apportioned to the town and the said Packer collegiate institute for the current year, and a brief notice that the books so specified, or so many of them as the trustees may select, not exceeding in amount the library money to which such district or said Packer collegiate

Publishers
to make
proposals
to superin-
tendent of
public in-
struction.

Lists of
books to be
sent to trust-
ees, &c.

PART I.

institute may be entitled, can be obtained in the manner provided by this act.

Trustees to select.

§ 2. The trustees, or a majority thereof, of any school district entitled to participate in the library moneys together with the trustees of the said Packer collegiate institute, may select from such list, or the list of any previous year, so many of said books as they may wish to purchase, under the limitation aforesaid, and shall make and deliver to the town superintendent of schools, as soon after the receipt of such circular as practicable, a list of the books so selected, with the prices annexed, to the town superintendent, specifying the number of the district or the institution for which the same are ordered; and the town superintendent shall thereupon make out for the town a complete list of the books so selected by each of the several districts and the said Packer collegiate institute, specifying the number, titles and prices of the books selected by each, under the limitation aforesaid, and shall, before the time in the next section mentioned, transmit such list to the county clerk of his county, who shall file the same in his office; the delivery of such list by the trustees to the town superintendent shall be taken and reported by him as a lawful expenditure of the library money.

Town superintendent to make out a list of books.

List to be sent to county clerk.

Duty of county clerk.

§ 3. The several county clerks shall thereupon, and on or before the last Tuesday in each year, make out a complete list for the county of all the books so ordered, specifying the number, title and prices of the books ordered, by each town and the said institute, and forthwith transmit a copy thereof to the state superintendent.

Duty of state superintendent.

§ 4. The state superintendent shall thereupon, and on or before the first Tuesday of February in each year, procure the books so ordered, and cause the same as ordered to be transmitted to the county clerks of the several counties, who shall deliver the same on demand, taking a receipt therefor, to the several town superintendents and the trustees of the said institute according to the number ordered by the respective towns and the trustees of said institute, to be distributed by the town superintendent among the several school districts entitled to the same and the trustees of said institute; the receipts so taken by the county clerks from the town superintendents, shall be sent by mail to the state superintendent, as vouchers for the proper distribution of the same. The expenses of transportation and other necessary disbursements under this act, shall be certified by the state superintendent, and paid by the comptroller out of the money annually appropriated for the transportation of books from the public offices.

Expenses, how paid.

State superintendent to retain a portion of library money.

§ 5. The state superintendent shall retain in his hands so much of the library money apportioned to each town and ward as may be necessary to pay for the books ordered by such town or ward, or the said Packer collegiate institute, and shall pay the same to the author or publisher of said books,

on the contract for the purchase thereof, taking receipts therefor, and filing the same in his office.

CHAP. 51.

AN ACT to appropriate the proceeds of the State tax for the support of schools, and to provide for the safe keeping of school moneys.

PASSED February 25, 1857; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

[Sections 1 and 2 temporary and local.]

§ 3. Every supervisor, before he shall be entitled to demand or receive from his predecessor in office, any school moneys remaining in the hands of such predecessor, shall execute and deliver to the county treasurer a bond, with two or more sufficient sureties to be approved by said treasurer, in the penalty of double the amount of such school moneys, conditioned for the faithful disbursement, safe keeping and accounting for said moneys; and no supervisor shall be credited or allowed any payment of school moneys made to his successor in office before such successor shall have delivered to him, to be filed in the town clerk's office, a certificate of the county treasurer that the bond herein required has been duly executed, approved by said treasurer and filed in his office.

Duty of supervisor.

§ 4. It shall be lawful for the board of supervisors, at their annual meeting, to levy a tax upon any town in their county, to supply any deficiency in the moneys apportioned, belonging to districts having their school-houses or school-house sites in such town, caused by the defalcation or embezzlement of school moneys by the supervisor thereof.

Tax to be levied for deficiency

CHAP. 151

AN ACT to change the school year, and to amend the statutes in relation to Public Instruction.

PASSED April 12, 1858; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The school year of the state shall hereafter commence on the first day of October and end with the thirtieth day of September; and all provisions of law in respect to the duties of school officers, now in force, shall apply to the year herein designated.

School year.

30 B., 503.

§ 2. The superintendent of public instruction shall provide for a return of the statistics now required from the various

Statistics to be returned &c.

PART I.

institute may be entitled, can be obtained in the manner provided by this act.

Trustees to select.

§ 2. The trustees, or a majority thereof, of any school district entitled to participate in the library moneys together with the trustees of the said Packer collegiate institute, may select from such list, or the list of any previous year, so many of said books as they may wish to purchase, under the limitation aforesaid, and shall make and deliver to the town superintendent of schools, as soon after the receipt of such circular as practicable, a list of the books so selected, with the prices annexed, to the town superintendent, specifying the number of the district or the institution for which the same are ordered; and the town superintendent shall thereupon make out for the town a complete list of the books so selected by each of the several districts and the said Packer collegiate institute, specifying the number, titles and prices of the books selected by each; under the limitation aforesaid, and shall, before the time in the next section mentioned, transmit such list to the county clerk of his county, who shall file the same in his office; the delivery of such list by the trustees to the town superintendent shall be taken and reported by him as a lawful expenditure of the library money.

Town superintendent to make out a list of books.

List to be sent to county clerk.

Duty of county clerk.

§ 3. The several county clerks shall thereupon, and on or before the last Tuesday in each year, make out a complete list for the county of all the books so ordered, specifying the number, title and prices of the books ordered, by each town and the said institute, and forthwith transmit a copy thereof to the state superintendent.

Duty of state superintendent.

§ 4. The state superintendent shall thereupon, and on or before the first Tuesday of February in each year, procure the books so ordered, and cause the same as ordered to be transmitted to the county clerks of the several counties, who shall deliver the same on demand, taking a receipt therefor, to the several town superintendents and the trustees of the said institute according to the number ordered by the respective towns and the trustees of said institute, to be distributed by the town superintendent among the several school districts entitled to the same and the trustees of said institute; the receipts so taken by the county clerks from the town superintendents, shall be sent by mail to the state superintendent, as vouchers for the proper distribution of the same. The expenses of transportation and other necessary disbursements under this act, shall be certified by the state superintendent, and paid by the comptroller out of the money annually appropriated for the transportation of books from the public offices.

Expenses, how paid.

State superintendent to retain a portion of library money.

§ 5. The state superintendent shall retain in his hands so much of the library money apportioned to each town and ward as may be necessary to pay for the books ordered by such town or ward, or the said Packer collegiate institute, and shall pay the same to the author or publisher of said books,

on the contract for the purchase thereof, taking receipts therefor, and filing the same in his office.

CHAP. XV

CHAP. 51.

AN ACT to appropriate the proceeds of the State tax for the support of schools, and to provide for the safe keeping of school moneys.

PASSED February 25, 1857; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

[Sections 1 and 2 temporary and local.]

§ 3. Every supervisor, before he shall be entitled to demand or receive from his predecessor in office, any school moneys remaining in the hands of such predecessor, shall execute and deliver to the county treasurer a bond, with two or more sufficient sureties to be approved by said treasurer, in the penalty of double the amount of such school moneys, conditioned for the faithful disbursement, safe keeping and accounting for said moneys; and no supervisor shall be credited or allowed any payment of school moneys made to his successor in office before such successor shall have delivered to him, to be filed in the town clerk's office, a certificate of the county treasurer that the bond herein required has been duly executed, approved by said treasurer and filed in his office.

Duty of supervisor.

§ 4. It shall be lawful for the board of supervisors, at their annual meeting, to levy a tax upon any town in their county, to supply any deficiency in the moneys apportioned, belonging to districts having their school-houses or school-house sites in such town, caused by the defalcation or embezzlement of school moneys by the supervisor thereof.

Tax to be levied for deficiency

CHAP. 151

AN ACT to change the school year, and to amend the statutes in relation to Public Instruction.

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§ 1. The school year of the state shall hereafter commence on the first day of October and end with the thirtieth day of September; and all provisions of law in respect to the duties of school officers, now in force, shall apply to the year herein designated.

School year.

30 B., 503.

§ 2. The superintendent of public instruction shall provide for a return of the statistics now required from the various

Statistics to be returned &c.

PART I.

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Trustees to select.

§ 2. The trustees, or a majority thereof, of any school district entitled to participate in the library moneys together with the trustees of the said Packer collegiate institute, may select from such list, or the list of any previous year, so many of said books as they may wish to purchase, under the limitation aforesaid, and shall make and deliver to the town superintendent of schools, as soon after the receipt of such circular as practicable, a list of the books so selected, with the prices annexed, to the town superintendent, specifying the number of the district or the institution for which the same are ordered; and the town superintendent shall thereupon make out for the town a complete list of the books so selected by each of the several districts and the said Packer collegiate institute, specifying the number, titles and prices of the books selected by each, under the limitation aforesaid, and shall, before the time in the next section mentioned, transmit such list to the county clerk of his county, who shall file the same in his office; the delivery of such list by the trustees to the town superintendent shall be taken and reported by him as a lawful expenditure of the library money.

Town superintendent to make out a list of books.

List to be sent to county clerk.

Duty of county clerk.

§ 3. The several county clerks shall thereupon, and on or before the last Tuesday in each year, make out a complete list for the county of all the books so ordered, specifying the number, title and prices of the books ordered, by each town and the said institute, and forthwith transmit a copy thereof to the state superintendent.

Duty of state superintendent.

§ 4. The state superintendent shall thereupon, and on or before the first Tuesday of February in each year, procure the books so ordered, and cause the same as ordered to be transmitted to the county clerks of the several counties, who shall deliver the same on demand, taking a receipt therefor, to the several town superintendents and the trustees of the said institute according to the number ordered by the respective towns and the trustees of said institute, to be distributed by the town superintendent among the several school districts entitled to the same and the trustees of said institute; the receipts so taken by the county clerks from the town superintendents, shall be sent by mail to the state superintendent, as vouchers for the proper distribution of the same. The expenses of transportation and other necessary disbursements under this act, shall be certified by the state superintendent, and paid by the comptroller out of the money annually appropriated for the transportation of books from the public offices.

Expenses, how paid.

State superintendent to retain a portion of library money.

§ 5. The state superintendent shall retain in his hands so much of the library money apportioned to each town and ward as may be necessary to pay for the books ordered by such town or ward, or the said Packer collegiate institute, and shall pay the same to the author or publisher of said books,

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CHAP. 51.

AN ACT to appropriate the proceeds of the State tax for the support of schools, and to provide for the safe keeping of school moneys.

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[Sections 1 and 2 temporary and local.]

§ 3. Every supervisor, before he shall be entitled to demand or receive from his predecessor in office, any school moneys remaining in the hands of such predecessor, shall execute and deliver to the county treasurer a bond, with two or more sufficient sureties to be approved by said treasurer, in the penalty of double the amount of such school moneys, conditioned for the faithful disbursement, safe keeping and accounting for said moneys; and no supervisor shall be credited or allowed any payment of school moneys made to his successor in office before such successor shall have delivered to him, to be filed in the town clerk's office, a certificate of the county treasurer that the bond herein required has been duly executed, approved by said treasurer and filed in his office. Duty of supervisors.

§ 4. It shall be lawful for the board of supervisors, at their annual meeting, to levy a tax upon any town in their county, to supply any deficiency in the moneys apportioned, belonging to districts having their school-houses or school-house sites in such town, caused by the defalcation or embezzlement of school moneys by the supervisor thereof. Tax to be levied for deficiency

CHAP. 151

AN ACT to change the school year, and to amend the statutes in relation to Public Instruction.

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§ 1. The school year of the state shall hereafter commence on the first day of October and end with the thirtieth day of September; and all provisions of law in respect to the duties of school officers, now in force, shall apply to the year herein designated. School year.

30 B., 503.

§ 2. The superintendent of public instruction shall provide for a return of the statistics now required from the various Statistics to be returned &c.

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school districts, for the nine months preceding the first day of October next, and shall apportion the public money on the schools for the year preceding that date, in the same manner as if the said reports had been rendered on the fifteenth of January; and the trustees, or trustee, when there is but one, of each district, shall annually thereafter, on or before the second Tuesday of October, file with the town clerk, for the use of the school commissioner, a report, similar in all respects to that now required to be made in January, except that the year to which it relates shall terminate on the last day of September immediately preceding.

Annual
meeting of
school dis-
tricts.

§ 3. The annual meeting of the taxable inhabitants and legal voters of the several school districts in this state, shall be held on the second Tuesday of October, in this and each succeeding year; and unless the hour and place of such meeting shall be fixed by the vote of a previous district meeting, the same shall be held at the school house, at seven o'clock in the evening. In districts possessing more than one school house, the meeting shall be held at the one usually employed for that purpose, to be designated by the trustees, or trustee, when there is but one, who shall cause notice of such meeting to be published as now prescribed by law.

School dis-
trict officer
term of
office.

§ 4. The term of office of all school district officers heretofore elected or appointed, or who may be elected or appointed previous to the second Tuesday of October next, shall be deemed to expire on said second Tuesday of October.

District
clerk.

§ 5. At the annual meeting on the second Tuesday of October next, there shall be chosen in each district, a district clerk, a librarian and a collector, who shall hold their offices respectively till the next annual meeting, and until their successors shall have been chosen or appointed.

Number of
trustees.

§ 6. The electors of each district shall have power at their annual district meeting, to determine by resolution whether there shall be chosen one or three trustees, and the number so determined upon shall be chosen; and if only one shall be determined upon and chosen, he shall possess all the powers and discharge all the duties of trustees as prescribed by law, and shall hold his office for one year. And whenever three trustees shall be chosen in any district, they shall hold their offices for one, two and three years, respectively, and the voters shall designate by their votes for which term each of the trustees is elected; and one trustee only shall thereafter annually be elected in such district, who shall hold his office for three years and until a successor shall be duly elected or appointed; but in case any trustee shall be elected to fill a vacancy, he shall hold the office only for the unexpired term which shall have become vacant. And whenever any district having had three trustees shall desire to have but one trustee, the electors of such district may pass a resolution to that effect, at an annual meeting, and upon the passage of such resolution, no other trustee shall thereafter be elected or

Vacancies.

appointed until the term or terms of those trustees then in office shall expire or become vacant, and they shall have power to act until their terms shall severally become vacant or expire, as fully as if the three continued in office. 35 B, 27.

§ 7. Any two trustees of any school district may make any order or transact any business in execution of the powers conferred upon said board of trustees by law; provided it shall appear in the order of proceedings filed by them, that all the trustees of the district met and deliberated on the subjects embraced in such order or proceedings, or were duly notified to attend a meeting of the trustees, for the purpose of deliberating thereon.

Power of trustees.

§ 8. The terms of all officers elected at the first meeting for the organization of any new district, shall expire on the second Tuesday of October thereafter, when successors shall be chosen in the manner and for the terms prescribed in the sixth section of this act.

New district.

§ 9. It shall be the duty of the district clerk, or of the person who by reason of the absence or disability of said clerk, shall act as clerk of any district meeting, held on the second Tuesday of October next, or of any year thereafter, when any school district officer shall be elected immediately to give notice in writing to every person so elected to any office, of his election; and that the person so notified shall be deemed to have accepted such office, unless within ten days after the service of such notice he shall file with the district clerk a written refusal to serve as such officer.

Duty of district clerk.

§ 10. Every collector of a school district shall, before receiving any warrant for the collection of moneys, execute a bond to the trustees, or to the trustee when there is but one, of his district, when required by them, in their corporate name, with one or more sureties, to be approved by one or more of the trustees, in double the amount of taxes to be collected, conditioned for the due and faithful execution of the duties of his office. It shall be the duty of every collector to keep in his possession all moneys collected by him, by virtue of any warrant in his hands, to be by him paid out upon the order of a majority of the trustees, to report in writing at the annual meeting, and to hand over to his successor in office all moneys in his hands belonging to the district.

Bond of collector.

§ 11. If any collector shall not execute such bond within the time which shall be allowed him by the trustees for that purpose, which shall not be less than ten days, his office shall be vacated; and the trustees may appoint any other person residing in the district, as collector in his place.

Omission to give bond

§ 12. Whenever the amount of library money annually apportioned to any school district shall fall below the sum of three dollars, it shall be lawful for the trustees of such district to apply the same in payment of teachers qualified according to law; and such application of library money shall not im-

Library money.

PART I.

pair the right of such district to its just proportion of the library money in subsequent years.

Repeal.

§ 13. All laws and parts of laws inconsistent with the provisions of this act, are hereby repealed.

Schools in cities accepted.

§ 14. Nothing contained in this act shall be so construed as to effect or interfere with any special school act now in force in any city, or incorporated village, or with any district organized under the provisions of the Union Free School law, passed June 18, 1853, except so far as relates to the time of making the annual report and of holding the annual school meeting.

Thus amended by Laws of 1862, ch. 384, § 5.

CHAP. 314.

AN ACT to provide for the more effectual insurance of school houses.

PASSED April 12, 1860; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

School house to be insured.

§ 1. The trustee or trustees of any school district in this state, are hereby authorized, if a majority of the legal voters present shall, at any regularly called school district meeting, so direct, to insure the school house or school houses belonging to said district, in any insurance company organized and established under the laws of this state; and they are hereby empowered to comply with all the conditions of insurance of any such company.

CHAP. 456.

AN ACT requiring school district lines to be definitely described and recorded.

PASSED April 16, 1860; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Duty of school commissioners.

§ 1. It shall be the duty of the school commissioner or commissioners, having jurisdiction, to inquire into and ascertain whether the several school district lines, within his or their commissioners' district, are definitely and plainly described in the book of records kept in the town clerk's office for that purpose, as now required by law. And in case any of them shall be found to be defective or indefinite, then he or they shall cause the same to be correctly and definitely described and recorded in said book, as required by law.

CHAP. 253.

AN ACT to establish a nautical school in the harbor of the city of New York.

PASSED April 15, 1861.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. There shall be organized and established in the harbor of the city of New York, a nautical school for the purpose of educating boys in the learning and duty of seamanship and the science of navigation.

School to be established.

§ 2. The said school shall be under the exclusive management and direction of five trustees, to hold their office for the term of five years, and three of whom shall be designated and appointed by the chamber of commerce of the city of New York, and two of whom shall be appointed by the governor. The term of office of the said trustees shall begin on the first day of May, eighteen hundred and sixty-one.

Trustees.

§ 3. The said trustees shall make such by-laws for the transaction of their business as shall be, in their judgment, expedient and not inconsistent with the laws of this state, and shall determine the number, station, term of office and duties of the officers proper for the management of said school, and their compensation, and the manner and time of their appointment, and shall appoint the same.

By-laws, &c.

§ 4. The said trustees shall have power to receive such funds or property as shall be subscribed, or loaned, or bequeathed for the organization or maintenance of said nautical school, and execute all necessary agreements for the faithful application of the same, and to receive such boys as shall be sent to said school by their parents or guardians; and all such boys, when so received into said nautical school, shall be subject to such regulations of conduct and discipline as, in the judgment of the trustees, are best adapted to their proper government, and the receiving and discharge of said boys shall be only in accordance with the by-laws and rules of said school, as may be by said trustees adopted. They shall have control of the school-ship of said institution, and shall exercise in relation thereto, and its care, supervision and management, all necessary powers and duties. They may also send any boy in education at such school on such voyage as they shall deem advisable for his proficiency and welfare, and may declare such sending a discharge of said boy from such institution. The trustees shall also determine what shall be the age at which boys may be taken into said school, with the consent of his parents or guardian, and under what circumstances fees for board in said school-ship and education and tuition may be charged and taken, and the rates of said board and education and tuition, and to extend to persons qualifying

Powers of trustees.

PART I.

pair the right of such district to its just proportion of the library money in subsequent years.

Repeal.

§ 13. All laws and parts of laws inconsistent with the provisions of this act, are hereby repealed.

Schools in cities excepted.

§ 14. Nothing contained in this act shall be so construed as to effect or interfere with any special school act now in force in any city, or incorporated village, or with any district organized under the provisions of the Union Free School law, passed June 18, 1853, except so far as relates to the time of making the annual report and of holding the annual school meeting.

Thus amended by Laws of 1862, ch. 384, § 5.

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§ 1. The trustee or trustees of any school district in this state, are hereby authorized, if a majority of the legal voters present shall, at any regularly called school district meeting, so direct, to insure the school house or school houses belonging to said district, in any insurance company organized and established under the laws of this state; and they are hereby empowered to comply with all the conditions of insurance of any such company.

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§ 1. It shall be the duty of the school commissioner or commissioners, having jurisdiction, to inquire into and ascertain whether the several school district lines, within his or their commissioners' district, are definitely and plainly described in the book of records kept in the town clerk's office for that purpose, as now required by law. And in case any of them shall be found to be defective or indefinite, then he or they shall cause the same to be correctly and definitely described and recorded in said book, as required by law.

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§ 1. There shall be organized and established in the harbor of the city of New York, a nautical school for the purpose of educating boys in the learning and duty of seamanship and the science of navigation.

School to be established.

§ 2. The said school shall be under the exclusive management and direction of five trustees, to hold their office for the term of five years, and three of whom shall be designated and appointed by the chamber of commerce of the city of New York, and two of whom shall be appointed by the governor. The term of office of the said trustees shall begin on the first day of May, eighteen hundred and sixty-one.

Trustees.

§ 3. The said trustees shall make such by-laws for the transaction of their business as shall be, in their judgment, expedient and not inconsistent with the laws of this state, and shall determine the number, station, term of office and duties of the officers proper for the management of said school, and their compensation, and the manner and time of their appointment, and shall appoint the same.

By-laws, &c.

§ 4. The said trustees shall have power to receive such funds or property as shall be subscribed, or loaned, or bequeathed for the organization or maintenance of said nautical school, and execute all necessary agreements for the faithful application of the same, and to receive such boys as shall be sent to said school by their parents or guardians; and all such boys, when so received into said nautical school, shall be subject to such regulations of conduct and discipline as, in the judgment of the trustees, are best adapted to their proper government, and the receiving and discharge of said boys shall be only in accordance with the by-laws and rules of said school, as may be by said trustees adopted. They shall have control of the school-ship of said institution, and shall exercise in relation thereto, and its care, supervision and management, all necessary powers and duties. They may also send any boy in education at such school on such voyage as they shall deem advisable for his proficiency and welfare, and may declare such sending a discharge of said boy from such institution. The trustees shall also determine what shall be the age at which boys may be taken into said school, with the consent of his parents or guardian, and under what circumstances fees for board in said school-ship and education and tuition may be charged and taken, and the rates of said board and education and tuition, and to extend to persons qualifying

Powers of trustees.

PART I.

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Repeal.

§ 13. All laws and parts of laws inconsistent with the provisions of this act, are hereby repealed.

Schools in cities accepted.

§ 14. Nothing contained in this act shall be so construed as to effect or interfere with any special school act now in force in any city, or incorporated village, or with any district organized under the provisions of the Union Free School law, passed June 18, 1853, except so far as relates to the time of making the annual report and of holding the annual school meeting.

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§ 1. It shall be the duty of the school commissioner or commissioners, having jurisdiction, to inquire into and ascertain whether the several school district lines, within his or their commissioners' district, are definitely and plainly described in the book of records kept in the town clerk's office for that purpose, as now required by law. And in case any of them shall be found to be defective or indefinite, then he or they shall cause the same to be correctly and definitely described and recorded in said book, as required by law.

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School to be established.

§ 2. The said school shall be under the exclusive management and direction of five trustees, to hold their office for the term of five years, and three of whom shall be designated and appointed by the chamber of commerce of the city of New York, and two of whom shall be appointed by the governor. The term of office of the said trustees shall begin on the first day of May, eighteen hundred and sixty-one.

Trustees.

§ 3. The said trustees shall make such by-laws for the transaction of their business as shall be, in their judgment, expedient and not inconsistent with the laws of this state, and shall determine the number, station, term of office and duties of the officers proper for the management of said school, and their compensation, and the manner and time of their appointment, and shall appoint the same.

By-laws, &c.

§ 4. The said trustees shall have power to receive such funds or property as shall be subscribed, or loaned, or bequeathed for the organization or maintenance of said nautical school, and execute all necessary agreements for the faithful application of the same, and to receive such boys as shall be sent to said school by their parents or guardians; and all such boys, when so received into said nautical school, shall be subject to such regulations of conduct and discipline as, in the judgment of the trustees, are best adapted to their proper government, and the receiving and discharge of said boys shall be only in accordance with the by-laws and rules of said school, as may be by said trustees adopted. They shall have control of the school-ship of said institution, and shall exercise in relation thereto, and its care, supervision and management, all necessary powers and duties. They may also send any boy in education at such school on such voyage as they shall deem advisable for his proficiency and welfare, and may declare such sending a discharge of said boy from such institution. The trustees shall also determine what shall be the age at which boys may be taken into said school, with the consent of his parents or guardian, and under what circumstances fees for board in said school-ship and education and tuition may be charged and taken, and the rates of said board and education and tuition, and to extend to persons qualifying

Powers of trustees.

PART I.

for stations beyond ordinary seamen the advantages of such school.

When to
organize.

§ 5. Whenever the trustees shall receive, in valid subscriptions, the amount of thirty thousand dollars, they shall proceed to organize the said school, and they may determine in what manner and at what time such subscription shall be paid, and may appoint a treasurer and determine his specific duties, and provide for the safe keeping of the funds committed to his care.

Inspection.

§ 6. The said nautical school shall at all time be open to the inspection and examination of the state superintendent of public instruction, and a full report of its affairs shall be made to said superintendent at such time in the year as he shall designate.

CHAP. 384.

AN ACT to amend the Statutes concerning Teachers' Institutes, and otherwise in relation to Public Instruction.

PASSED April 21, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Pay to
school com-
missioners.

§ 1. The Treasurer shall pay, on the warrant of the Comptroller, to the order of any one or more of the school commissioners, such sum or sums as the Superintendent of Public Instruction shall certify to be due for expenses incurred by any one or more of them, in holding teachers' institutes in their respective counties or assembly districts, as required by section eight, chapter one hundred and seventy-nine, Laws of eighteen hundred and fifty-six.

Ante, p. 512.

Duty of
superin-
tendent as
to teachers'
institutes.

§ 2. It shall be the duty of the superintendent of public instruction to advise and co-operate with the school commissioners in regard to the time and place of holding teachers' institutes, and he shall have power to employ suitable persons to conduct and teach the same, and to pay them in the same manner as provided in the first section of said act for the payment of expenses incurred by the school commissioners, and he shall visit or cause to be visited, by any person or persons employed in the department of public instruction, such and so many institutes as he may find it practicable to reach, for the purpose of examining into the course and method of instruction pursued, and of rendering such assistance as he may find expedient; and he shall establish the basis upon which the yearly appropriation for the support of teachers' institutes shall be distributed to the several institutes, and the term or terms during which the same may be held, having reference, in the establishment of such regulations, to the number of teachers in the county and in attendance at the institute, to the length of time during which they shall be held, to the facilities for securing attendance upon them, and to local disadvantages requiring especial consideration.

As amended by Laws of 1863, ch. 378. *Post*, vol. 6, p. 130.

CHAP. XV.
Certificates.

§ 3. The Superintendent of Public Instruction may establish such regulations in regard to the forms of certificates issued by school commissioners, as shall in his judgment best serve as an incentive and an encouragement to teachers to attend upon the sessions of the institute; and the closing of school by any teacher, for a term not exceeding two weeks, for the purpose of attending the institute held in the county where such teacher shall be employed, shall not work a forfeiture of the contract under which he may be teaching, and he shall be allowed to make up the time spent at the institute, not exceeding two weeks, immediately after the close of his original term of engagement.

Teachers
may attend
institutes.

§ 4. The trustees of any school district are hereby authorized, in their discretion, to give to the teacher or teachers employed by them, the time, either wholly or in part, spent by such teacher or teachers at any regular session of the institute in the county where they are employed, without deducting from the wages of such teacher or teachers any portion thereof on account of such absence; and whenever any district shall be reported as having supported a school but five and one-half months during the year, and it shall be shown to the satisfaction of the Superintendent of Public Instruction that the failure to support a school six months was owing to the absence of the teacher while attending a teachers' institute in the county in which such district shall wholly or partly lie, the Superintendent of Public Instruction may direct that such district be included in the apportionment of school moneys, provided that in all other respects such district shall appear legally entitled to such apportionment.

Authority
of trustees.Authority
of superin-
tendent.

[Section 5 amends ch. 151, Laws of 1858.]

§ 6. Whenever it shall be satisfactorily shown to the Superintendent of Public Instruction that any school commissioner has persistently neglected the duties prescribed by law for him to perform, he may withhold his order for the payment of the whole or any part of the salary of said commissioner, as the same shall become due, and the sum so withheld shall be forfeited by such commissioner as a penalty for such neglect; but the Superintendent of Public Instruction shall have power to remit such penalty, if the commissioner shall subsequently disprove or satisfactorily justify such neglect.

Neglect of
school com-
missioner.

§ 7. All laws or parts of laws, so far as they are inconsistent with the provisions of this act are hereby repealed.

Repeal.

CHAPTER XVI.**Roads, Bridges and Ferries.****CHAP. 107.**

AN ACT to amend Article second, Title first of the sixteenth Chapter, part first, of the Revised Statutes, entitled "Of the Persons liable to work on Highways, and the making assessments therefor."

PASSED April 10, 1832.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Non-residents.

§ 1. Lands of non-residents within any town occupied and improved by the owner or owners, or his or their servants or agents, shall be liable to the same assessments for highways as if the owner or owners were residents.

Re-assessment in case of neglect.

§ 2. Whenever it shall appear, from the annual return of any overseer of highways, made in pursuance of the fifty-first section of the sixteenth chapter of title first of the first part of the Revised Statutes, that any person who was assessed to work on the highways, (other than non-residents,) has neglected to work the whole number of days to him assessed, and has not commuted for, or otherwise satisfied such deficiency, then it shall be the duty of the commissioners of highways to re-assess such deficiency to the person so delinquent, at the next assessment of work for highway purposes, and to add to it his annual assessment. Ante, vol. 1, p. 471.

Overseer.

§ 3. Such re-assessment shall not exonerate any overseer of highways from any penalty which he may have incurred under the sixteenth section of the last aforesaid chapter.

CHAP. 274.

AN ACT for the more effectual improvement of Roads and Bridges.

PASSED April 25, 1832.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Application for additional tax.

§ 1. Whenever the commissioners of highways of any town in this state shall be of opinion, that the sum of two hundred and fifty dollars, as now allowed by law, will be insufficient to pay the expenses actually necessary for the improvement of roads and bridges, it shall be lawful for such commissioners to apply, in open town meeting, for a vote

authorizing such additional sum to be raised as they may deem necessary for the purpose aforesaid, not exceeding two hundred and fifty dollars, in addition to the sum now allowed by law.

12 N. Y., 58.

§ 2. Before making such application, it shall be the duty of the commissioners to give notice of their intended application by posting the same in a conspicuous manner in at least five of the most public places in such town, at least four weeks next preceding the annual town meeting: such notice shall specify the amount to be applied for, and the purposes for which the same is intended to be appropriated, with the probable amount necessary to be expended at each place if there shall be more than one.

Notice how to be given

§ 3. Whenever any application for a grant of money for the purposes mentioned in the first section of this act, shall be made to any town meeting, it shall be the duty of the commissioners making the same, to exhibit a statement of their accounts, and an estimate of the expenses necessary for the improvement of roads and bridges in such town the ensuing year.

Accounts to be exhibited.

§ 4. If the town meeting shall, by their votes, determine that a sum over and above the amount now allowed by law will be necessary for the improvement of roads and bridges, or to pay any balance that may be due, the clerk shall enter such resolution as shall be agreed to, in the minutes of the meeting, and deliver a copy thereof to the supervisor of the town, who shall lay the same before the board of supervisors at their next annual meeting; and it shall be their duty to cause the amount specified in such resolution, to be levied and collected, in the same manner as other town charges of such town.

Order to levy tax.

§ 5. If any town shall, at an annual meeting, have already voted to raise a sum exceeding two hundred and fifty dollars, for the purposes aforesaid, it shall be the duty of the board of supervisors of the county in which such town is situated to assess, levy and collect the sum so voted to be raised upon said town.

Tax already ordered.

CHAP. 149.

AN ACT to authorize commissioners of highways to administer oaths in certain cases.

PASSED April 12, 1833.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The commissioners of highways are authorised to administer the oath required by the fifty-first section of title

PART I.

first, article third, chapter sixteenth, part first of the Revised Statutes. Ante, Vol. 1, p. 471.

CHAP. 267.

AN ACT to amend the fourth article of the first part of the Revised Statutes, entitled "Of the laying out of public and private roads, and of the alteration or discontinuance thereof."

PASSED May 3, 1834.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Amend-
ment to
Rev. Stat.

§ 1. The sixtieth section of the first title of chapter sixteenth, of part first of the Revised Statutes, is hereby amended by inserting after the words "sworn by," the words "a justice of the peace or," so that the section shall read as follows:

Freeholders
to be sworn.

§ 60. If twelve reputable freeholders of the town, not interested in the lands through which the road is to be laid, nor of kin to the owner thereof, shall appear at the time and place specified in the notice, they shall then be sworn by a justice of the peace, or any officer authorized to administer oaths, well and truly to examine and certify in regard to the necessity and propriety of the highway applied for.

Former pro-
ceedings
confirmed.

§ 2. All proceedings heretofore had under said sixtieth section, where the oath therein mentioned was administered by a justice of the peace, shall be and the same are hereby declared to be valid and effectual.

Reserva-
tion.

§ 3. The passage of this act shall not affect or impair any suit or legal proceedings that may have been had, or commenced in consequence of the invalidity of any proceedings had before a justice of the peace under the section hereby amended, nor be construed in any such suit or proceeding as a legislative construction of said act.

CHAP. 154.

AN ACT in relation to the assessment of highway labor.

PASSED April 24, 1835.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Land occu-
pied by a
servant.

§ 1. The real property of non-resident owners, improved or occupied by a servant or agent, shall be subject to assessment of highway labor, and at the same rate as the real property of resident owners.

[Sections 2 and 3 amend the Revised Statutes.]

CHAP. 300.

AN ACT to enlarge the powers of commissioners of highways.

PASSED May 11, 1835.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any association or individual shall construct a railroad upon land purchased for that purpose, on a route which shall cross any road or other public highway, it shall be lawful for the commissioners of highways, having the supervision thereof, to give a written consent that such railroad may be constructed across, or on such road or other public highway; and thereafter such association or individual shall be authorized to construct and use such railroad across, or on such roads or other highways as the commissioners aforesaid shall have permitted; but any public highway thus intersected or crossed by a railroad, shall be so restored to its former state as not to have impaired its usefulness.

As to rail
roads on
highways.

14 N. Y., 520.

CHAP. 122.

AN ACT to amend article fourth of title first of chapter sixteenth of part first of the Revised Statutes, entitled "Of the laying out of public and private roads, and of the alteration or discontinuance thereof."

PASSED April 11, 1836.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Every person liable to be assessed for highway labor, and owning lands in a town in which he is not a resident, may apply to the commissioners of highways of the town in which the lands are situated, to alter, discontinue or to lay out any road through the same. Ante, vol. 1, p. 472.

Non-resi-
dents may
apply.

CHAP. 225.

AN ACT relating to the joint liability of commissioners of highways.

PASSED May 25, 1841.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any two or more towns shall be liable to make or maintain any bridge or bridges, the same shall be

Bridges
how to be
built and
repaired.

PART I.

built and maintained at the joint expense of said towns, without reference to town lines.

Thus amended by Laws of 1857, ch. 383.

Commissioners to make contracts.

§ 2. For the purpose of building and maintaining such bridges, it shall be lawful for the commissioners of said towns, or of commissioners of either one or more towns respectively, the other or others refusing to act, to enter into joint contracts, and such contracts may be enforced in law or equity, against such commissioners or their representative successors, jointly or severally respectively; and the commissioners of said towns so liable may be proceeded against jointly for any neglect of duty in reference to such bridges.

Thus amended by Laws of 1857, ch. 383.

Refusal to repair bridges.

§ 3. If the commissioners of highways of either of such towns, after notice in writing from the commissioners of highways of any other of such towns, shall not within twenty days give their consent in writing to build or repair any such bridge, and shall not within a reasonable time thereafter do the same, it shall be lawful for the commissioners so giving such notice to make or repair such bridge, and then to maintain a suit at law in their official capacity, against said commissioners so neglecting or refusing to join in such making or repairing, and in such suit the plaintiff or plaintiffs shall be entitled to recover so much from the defendant or defendants respectively representing said other towns as the town or towns would be liable to contribute to the same, together with costs of suit and interest, without proving any contract; and in an action in pursuance of the act hereby amended, to recover the expense of building or repairs, it shall not be necessary to entitle such commissioner or commissioners to recover on the trial of the above action to prove that the defendants, or their predecessors in office, were at the time of the service of the notice above mentioned, in the possession of funds belonging to the town which he or they represent, sufficient to make such repairs, nor shall the want of funds be any defence to the said action; and it shall be the duty of the board of supervisors of the county in which such towns are located, to levy the amount of any judgment so obtained, with costs and interest, on the taxable property of any town against the commissioner or commissioners of which such judgment has been so obtained, but the commissioner or commissioners of such town shall not be personally liable for such judgment.

Thus amended by Laws of 1857, ch. 383.

Judgment recovered to be a charge on town.

§ 4. Any judgment recovered against the commissioners of highways in their official capacity under the provisions of this act, shall be a charge on said town, and collected in the same manner as other town charges, except in cases where the court before which the judgment shall be recovered shall certify that the neglect or refusal of said commissioners was wilful and malicious, in which case said commissioners shall be person-

ally liable for such judgment, and the same may be enforced against them in the same manner as against individuals.

CHAP. 62.

AN ACT to regulate the construction of roads and streets across railroad tracks.

PASSED March 29, 1853.

The People of the State of New York. represented in Senate and Assembly, do enact as follows:

§ 1. It shall be lawful for the authorities of any city, village or town in this state, who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid or which may hereafter be laid, without compensation to the corporation owning such railroad; but no such street or highway shall be actually opened for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation.

To lay out streets or highways across railroad tracks.

§ 2. It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavation and other work to be done on their road for that purpose; and all the provisions of the act, passed April second, eighteen hundred and fifty, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out.

Railroad corporations to take streets or highways across their tracks

24 N. Y., 345; 21 B., 517.

§ 3. If any railroad corporation shall neglect or refuse, for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of twenty dollars for every subsequent day's neglect or refusal, to be recovered by the officers laying out such street or highway, to be expended on the same; but the time for doing said work may be extended, not to exceed thirty days, by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion the said work cannot be performed within the time limited by this act.

Penalty for a neglect or refusal.

CHAP. 174.

AN ACT in relation to laying out private roads, and discontinuing public highways.

PASSED April 12, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Applica-
tions how
made.

§ 1. An application for a private road shall be made in writing, specifying its width and location, courses and distances, and the names of the owners and occupants of the land through which the road is proposed to be laid out.

29 B, 80; 43 B, 198.

Jury to de-
termine
upon neces-
sity of road,
and assess
damages.

§ 2. The commissioner or commissioners, to whom such application shall be made, shall thereupon appoint as early a day as the convenience of the parties interested will allow, when, at his office, a jury will be selected for the purpose of determining upon the necessity of said road, and to assess the damages by reason of the opening thereof.

Copy of ap-
plication
and notice
to be deliv-
ered to ap-
plicant.

§ 3. Such commissioner or commissioners shall thereupon deliver to the applicant a copy of such application, to which shall be added a notice of the time and place appointed for the selection of such jury, addressed to the owners and occupants of said land.

Copy and
notice to be
served
upon per-
sons to
whom ad-
dressed.

§ 4. The applicant, on receiving such copy and notice, shall on the same day, or the next day thereafter, cause such copy and notice to be served upon the persons to whom it is addressed, by delivering to each of them who reside in the same town a copy thereof, or in case of his absence by leaving the same at his dwelling house, and upon such as reside elsewhere by depositing in the post-office a copy thereof to each, addressed to them respectively at their places of residence, and paying the postage thereon, or, in case of infant owners, by like services upon their parent or guardian.

Parties con-
sidering
themselves
aggrieved
may appeal
to county
judge.

§ 5. At such time and place, on due proof of the service of such notice, such commissioners, or, in a town where there are more than one, either of them, shall present a list of the names of eighteen persons, residents of said town, who are freeholders, and in no wise of kin to such applicant, owner or occupant, or either of them, and not interested in such lands. And if any person shall consider himself aggrieved by the decision of the said freeholders either in laying out or closing a road he may, within sixty days after such determination shall have been filed in the office of the town clerk, appeal to the county judge of the county in the same manner as appeals were heretofore allowed to be made to three judges under title first, article fourth, chapter sixteenth, part first of the Revised Statutes.

Thus amended by Laws of 1860, ch. 468.

§ 6. The owners or occupants of such lands may strike off from such list any number of names not exceeding six; the applicant may in like manner strike off six names or less, and the persons whose names are not stricken off, or if more than six names are left upon the list, then the six persons whose names stand first upon the list shall be the jury for the purpose aforesaid.

CHAP. XVI.
Certain
number of
names may
be struck
off from
list.

§ 7. The commissioner shall then appoint some convenient time and place for the jury to meet and be sworn in the premises, and shall summon them accordingly.

Place of
meeting of
jury.

§ 8. If at the time and place last mentioned, all the persons named as such jury shall meet, they shall be sworn well and truly to determine as to the necessity of said road, and to assess the damages by reason of the opening thereof; if one or more of such six persons shall not appear, the commissioner shall summon, of the bystanders or others, so many, free from all legal objection, as will be sufficient to make the number six, who shall be sworn as aforesaid.

Jury to de-
termine
and assess
damages.

§ 9. Such commissioner is hereby authorized to swear the jury, and to administer any oath necessary to carry this act into effect.

Commis-
sioners to
swear the
jury.

§ 10. The jury shall view the premises, and after hearing the allegations of the parties, and such witnesses as they may produce, shall proceed to deliberate and make up their verdict; and if they shall determine that the proposed road is necessary, they shall assess the damages to the person or persons through whose land the same is to pass, and deliver their verdict in writing to the commissioners.

Jury to
make up
their ver-
dict.

§ 11. If the necessity of such private road has been occasioned by the alteration or discontinuance of a public highway running through the lands belonging to the same person or persons through whose lands the private road is proposed to be opened, the jury shall take into calculation the value of the road so discontinued, and the benefit resulting to such person or persons by reason of such discontinuance, and shall deduct the same from the damages assessed for the opening and laying out of such private road.

Jury to take
into calcu-
lation value
of road dis-
continued.

§ 12. The commissioner shall annex to such verdict the application mentioned in the first section of this act, and hand the same to the town clerk, who shall file the same, and the commissioner or commissioners shall lay out and make a record of said road, as described in the petition of the applicant.

Application
to be an-
nexed to
verdict, and
same to be
handed
town clerk.

§ 13. In case any accident shall prevent any of the proceedings required by this act to be done on the day assigned, the proceedings may be adjourned to some other day, and the commissioner shall publicly announce such adjournment.

Proceed-
ings may be
adjourned.

§ 14. The damages assessed by the jury shall be paid by the party, for whose benefit the road is laid, before the said road shall be opened or used. But in case the assessors of said town shall certify that the necessity of such private road

Damages to
be paid be-
fore open-
ing road.

PART I.

Description
of any road
abandoned.

was occasioned by the alteration or discontinuance of a public highway, such damages shall be paid by said town and refunded to the applicant.

§ 15. Whenever any public highway, or any part thereof, by reason of alterations made therein, or by the opening of a new road, or in any other way, shall be abandoned by the public, and is no longer used as a public road, the commissioners or commissioner of highways shall file in the town clerk's office of the town a description in writing, signed by them or him, of the road so abandoned, and the same shall thereupon be discontinued.

Roads
along divi-
sion lines,
and pro-
ceedings
regarding
same.

§ 16. Whenever a public or private road shall be laid along the division line between the lands of two or more persons, and wholly upon one side of said line, and the lands upon both sides of said division line shall be cultivated or improved; then, and in that case, the person owning or occupying the lands joining said road shall be paid for building and maintaining such additional fence as he may be required to build, or maintain, by reason of the laying out and opening said road; which said damages shall be ascertained and determined in the same manner that other damages are now ascertained and determined in the laying highways or private roads.

CHAP. 255.

AN ACT to enlarge the powers and duties of Commissioners of Highways.

Passed April 10, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

May sue
railroad
companies.

§ 1. The commissioner or commissioners of highways in each of the towns of this state, are hereby empowered to bring any action against any railroad corporation, that may be necessary or proper to sustain the rights of the public in and to any highway in such town, and to enforce the performance of any duty enjoined upon any railroad corporation in relation to any highway in the town of which they are commissioners, and to maintain an action for damages or expenses which any town may sustain or may have sustained, or may be put to or may have been put to, in consequence of any act or omission of any such corporation in violation of any law in relation to such highway.

§ 2. Nothing in this act shall be construed as in any manner impairing the right of any person or officer to bring any action now authorized by law.

CHAP. 491.

AN ACT to provide for the assessment of damages upon the laying out of public highways through unenclosed, unimproved and uncultivated lands.

Passed April 15, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. When a highway shall hereafter be laid out through unenclosed, unimproved and uncultivated lands, the damages shall be assessed in the same manner as if the same were laid out through enclosed, improved and cultivated lands. Assessment of damages.

Thus amended by Laws of 1858, ch. 51.

§ 2. All acts or parts of acts inconsistent with this act are hereby repealed. Repeal.

CHAP. 615.

AN ACT to allow the several towns in this state to raise an increased amount of money for the support of Roads and Bridges, and to provide for increased compensation of Commissioners of Highways and other town officers.

Passed April 15, 1857; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Whenever the commissioners of highways of any town in this state shall be of the opinion that the sum now provided by law will be insufficient to pay the expenses actually necessary for the improvement of roads and bridges, and to pay any balance that may be due for such improvement, it shall be lawful for such commissioners to apply in open town meeting for a vote authorizing such additional sum to be raised as they may deem necessary for the purposes aforesaid, not exceeding seven hundred and fifty dollars in addition to the sum now allowed by law. The same notice shall be given by the commissioners of their intention to apply for the raising of such additional sum as is now required by law for the raising of money for roads and bridges above the amount of two hundred and fifty dollars. Duty of commissioners of highways.

§ 2. The commissioner of highways in any town in this state where there is but one such officer, shall be allowed the sum of two dollars per day for each day actually and necessarily spent in the discharge of his official duties; and in towns where there is more than one commissioner, they shall receive for such official service each the sum of one dollar and fifty cents for each day actually and necessarily spent therein. Compensation.

PART I.
1b.

§ 3. The following town officers shall be entitled to compensation at the following rates for each day actually and necessarily devoted by them to the service of the town in the duties of their respective offices :

1. The supervisor (except when attending the board of supervisors), town clerk, assessors, justices of the peace, inspectors of elections, clerks of the polls and overseers of the poor, one dollar and fifty cents a day.

So amended by Laws of 1860, ch. 305.

§ 4. All provisions of law inconsistent with this act are hereby repealed.

CHAP. 639.

AN ACT further to provide for the raising of funds by tax to pay for the building or repair of bridges across streams dividing towns or counties.

PASSED April 16, 1857 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Proceed-
ings.

§ 1. Whenever any adjoining towns shall be liable to make or maintain any bridge over any streams dividing such towns, whether in the same or different counties, it shall be lawful for three freeholders in either of such towns, by a petition in writing signed by them, to apply to the commissioners of highways in each of such towns, to build, rebuild or repair such bridge, and if such commissioners refuse to build, rebuild or repair such bridge within a reasonable time, either for the want of funds or any other cause, the said freeholders upon affidavit and notice of motion, a copy of which shall be served on each of said commissioners at least eight days before the hearing thereof, may apply to the supreme court at a special term thereof, to be held in a judicial district, in which such bridge or any part thereof shall be located, or to a judge of said court at chambers, for a rule or order requiring such commissioners to build, rebuild or repair such bridge, and such court or judge upon such motion, may in doubtful cases, refer the matter to some disinterested person to ascertain the requisite facts in relation thereto, and to report the evidence thereof to said court or to such judge. Upon the coming in of such report, in case of such reference, or upon or after the hearing of the motion, in case no such reference shall be ordered, the court or judge shall make such order thereon as the justice of the case shall require. If such motion be granted in whole or in part, whereby funds shall be needed by the said commissioners to carry said order into effect, such court or judge shall specify the amount of money required for that purpose, and how much thereof shall be raised in each town.

Order of
court.

§ 2. In case a reference shall be ordered, as specified in the first section of this act, the referee shall appoint a suitable time and place for taking the evidence and shall notify one of said freeholders, and the said commissioners thereof, or cause them so to be notified; he shall have power to issue subpoenas for witnesses at the instance of either party, and may compel the attendance of such witnesses, or failing to appear in obedience to such subpoena, by attachment, and may punish defaulting witnesses for contempt by fine or imprisonment; he shall have power to adjourn such proceedings from time to time, and to administer the requisite oath to witnesses before him. The referee shall report the evidence taken before him to the court or justice who made the order of reference without unnecessary delay, and shall be entitled to three dollars a day for his services, to be paid in the first instance by the said freeholders.

§ 3. The commissioners of highways of any such town are hereby authorized to institute and prosecute proceedings under this act, to compel the commissioners of such adjoining towns to join in the building, rebuilding or repair of any such bridge, in like manner as the said freeholders are hereby authorized so to do.

Commis-
sioners to
institute
proceed-
ings.

§ 4. Upon the said order for building, rebuilding or repairing such bridge being made, and a copy thereof being served on the commissioners of highways of such adjoining towns respectively, the commissioners of highways of said two towns shall forthwith meet and fix on the plan of such bridge, or the manner of repairing such bridge, and shall cause such bridge to be built, rebuilt or repaired, out of any funds in their or either of their hands applicable thereto; and in case no funds or an inadequate amount thereof are on hand, then they shall cause the same to be built, rebuilt or repaired upon credit, or in part for cash and in part upon credit according to the exigency of the case; and the commissioners are authorized to enter into a contract with any contractor for building, rebuilding or repairing such bridge, pledging the credit of each town for the payment of its appropriate share, so far as the same shall be done upon credit.

Their duty.

§ 5. The commissioners of highways in each town shall make a full report of their proceedings in the premises, to the auditors of town accounts at the time of making their annual report. The said commissioners for each town shall attach to the copy of the said order granted by the supreme court or a judge thereof, an accurate account under oath of what has been done in the premises and deliver the same to the supervisors of each town. The board of supervisors at their annual meeting, shall levy a tax upon each of such towns, when in the same county, and upon the appropriate town when in different counties, its share of the costs of building, rebuilding or repairing such bridge, after deducting all payments actually made by said commissioners thereon; which tax, including

Commis-
sioners to
report.

PART I.**Appeals.**

prior payments, shall in no case exceed the amount specified in said order.

§ 6. Either party considering himself aggrieved by the granting or refusal to grant such order, by the court at special term or by a judge of such court may appeal from such decision to the supreme court, at general term for the review of such decision. The supreme court at the general term shall have power to alter, modify, or reverse such order, with or without costs.

Power of court on appeal.

§ 7. The supreme court at special term, or a judge at chambers, shall have power to grant or refuse costs as upon a motion, including also witnesses' fees, referee's fees and disbursements. The appeal provided for in the last section shall conform to the practice of the supreme court in case of appeals from the decision of a motion at a special term to the general term of the supreme court.

Refusal to repair bridges.

§ 8. Whenever any such bridge shall have been or shall be so out of repair as to render it unsafe for travelers to pass over the same, or whenever such bridge shall have fallen down, or been swept away by a freshet or otherwise, if the commissioners of highways of such adjoining towns, after reasonable notice of such condition of such bridge, have neglected or refused, or shall neglect or refuse to repair or rebuild such bridge, then and in such case whatever funds have been or shall be necessarily or reasonably laid out or expended in repairing such bridge, or in rebuilding the same, by any person or persons or by any corporation, shall be a charge upon such adjoining towns, each being liable for its just proportion; and the person or persons, or corporation, who has made such expenditure, or shall make the same, may apply to the supreme court at a special term, or to a judge at chambers, for an order requiring such towns severally to reimburse such expenditures, which application shall be made upon serving papers for such application upon the commissioners of highways in each of such towns, at least eight days before such application shall be made, and such court or judge is authorized to grant an order requiring each of such adjoining towns to pay its just proportion of such expenditure, specifying the same; and in case such order shall be granted, it shall be the duty of the commissioners of highways in each of such towns forthwith to serve a copy of such order upon the supervisor of each of such towns, who shall present the same to the board of supervisors at their next annual meeting. The board of supervisors shall raise the amount justly chargeable upon each town, and cause the same to be collected and paid to such person or persons, or corporation, as incurred such expenditure. The right of appeal is given to such party under this section, provided for under the sixth section of this act.

CHAP. 103.

AN ACT to provide for the speedy construction and repair of roads and bridges where the same have been damaged or destroyed.

PASSED April 6, 1858; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In case any road or roads, bridge or bridges, shall be damaged or destroyed by the elements or otherwise after any town meeting shall have been held, and since the fifteenth day of February, A. D. eighteen hundred and sixty-five, then and in that case shall it be lawful for the commissioner or commissioners of highways, by and with the consent of the board of town auditors (or a majority thereof) of the town or towns in which such road or roads, bridge or bridges, shall be situated, to cause the same to be immediately repaired or rebuilt, although the expenditure of money required may exceed the sum now authorized to be raised by law upon the taxable property of the town or towns for such purposes, and the commissioners of highways shall present the proper vouchers for the expense thereof to the town auditors at their next annual meeting, and the said bill shall be audited by them; and the amounts audited thereon shall be collected in the same manner as amounts voted at town meetings as now required. The commissioners acting under this act shall be entitled to receive for each day's service, actually rendered, two dollars.

Bridges, &c., to be repaired by commissioners of highways.

As amended by Laws of 1865, ch. 442. Post, vol. 6, p. 437.

§ 2. The board of town auditors may be convened in special session by the supervisor, or in his absence the town clerk, upon the written request of any commissioner of highways, and the bills and expenses incurred in the erection or repairs of any such roads or bridges, may then be presented to and audited by such board of town auditors; and the supervisor and town clerk shall issue a certificate, to be subscribed by them, setting forth the amount so audited and allowed, and in whose favor, and the nature of the work done and material furnished; and such certificate shall bear interest from its date, and the amount thereof, with interest, shall be levied and collected in the same manner as other town expenses.

Town auditors to audit expenses, incurred, &c.

§ 3. No account for services rendered or material furnished according to the provisions of this act, shall be allowed by such board unless the same shall be accompanied by the affidavit of the party or parties performing such labor or furnishing such material, nor unless the commissioner or commissioners shall certify that such service has been actually performed, and such material was actually furnished, and that the same was so performed or furnished by the request of said commissioner or commissioners, and such board of auditors may require and take such other proof as they may deem proper to establish any claim for such labor and material, and the value therefor.

What accounts may not be allowed.

PART I.

CHAP. 61.

AN ACT to construct and protect sidewalks along highways.

PASSED March 10, 1860; three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*Sidewalks
to be con-
structed.

§ 1. It shall be lawful for any person owning or occupying lands adjoining a highway or road, to construct a sidewalk within said highway or road, along the line of such land, and when a sidewalk shall be or has been so constructed, every person who shall ride or drive a horse or team upon it, except for legitimately crossing the same, shall forfeit not less than two nor more than five dollars for each offense, in the discretion of the court, one-half to the use of the owner or occupant, and the other half to the path-master of the road district, to be expended in the improvement of sidewalks therein, to be recovered in any court having cognizance thereof, with costs of suit.

Neglect to
prosecute
for penalty.

§ 2. Whenever any owner or occupant of any such land shall refuse or neglect to prosecute for the forfeiture incurred by such trespass, it shall be lawful for any other party or person owning or occupying lands adjoining any continued portion of said sidewalk, wherein such trespass was committed, and interested as a user thereof, to prosecute in his own name, the person or persons so incurring such forfeiture, the proceeds of which shall go, one-half to the prosecutor, for his trouble and expense, and the other half for the improvement of sidewalks as in section first.

Authority
of commis-
sioners of
highways.

§ 3. This act shall not be so construed as to diminish in any way, or interfere with the authority of commissioners or overseers of highways, or any other authority legally exercised over highways or roads; but the said commissioners of highways of the several towns in this state, are hereby authorized to expend a part of the highway tax levied in their road districts, upon the sidewalks therein, and in planting shade trees upon the public greens or squares in said towns, provided the roads are always kept in good repair.

CHAP. 311.

AN ACT to amend the Revised Statutes in respect to highways.

PASSED April 17, 1861; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Section ninety-nine of article four, title one, chapter sixteen of part first of the revised statutes, is hereby amended so as to read as follows:

CHAP. XVI.
Roads to be
opened in
six years.

§ 99. Every public highway and private road already laid out and dedicated to the use of the public, that shall not have been opened and worked within six years from the time of its being so laid out, and every such highway hereafter to be laid out, that shall not be opened and worked within the like period, shall cease to be a road for any purpose whatever; but the period during which any suit, mandamus, certiorari, or other proceeding, shall have been or shall be pending in regard to any such highway, shall form no part of said six years, and all highways that have ceased to be traveled or used as highways for six years, shall cease to be a highway for any purpose.

Ante, vol. 1, p. 480; 46 B., 317, 622.

§ 2. The provisions of this act shall apply to every public highway and private road laid out and dedicated to the use of the public within the last six years, and to every such highway hereafter to be laid out.

CHAP. 112.

AN ACT to regulate the use of public highways.

PASSED April 2, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall not be lawful for any owner or owners of any wild or rare animal, native or imported, which shall be used for exhibition in any menagerie or show, or owned or possessed for the purpose of so exhibiting the same, to convey or cause to be conveyed, or led or driven, over, through or upon any public highway, road or street, such wild or rare animal, unless such owner or owners shall send before the same, a person of mature age, at least one-half of a mile in advance to notify and warn persons traveling or using said highway, road or street, with horses or other domestic animals liable to be frightened by such wild or rare animal, of the approach of such animal. Any such owner using any public highway, road or street in violation of the provisions of this act, shall be deemed guilty of a misdemeanor, and may be punished, on conviction, by fine, not exceeding one hundred dollars, or by imprisonment in a county jail not exceeding ninety days, or by both such fine and imprisonment, in the discretion of the court before which such conviction shall be had.

In regard
to wild
animals.

Punish-
ment for
violation.

§ 2. Any servant or agent of the owner or owners of such wild or rare animal, and having the same in charge, who shall wilfully neglect to give the notice and warning required by the foregoing section, shall be deemed guilty of a misdemeanor, and liable to punishment therefor as prescribed in said section.

Agent lia-
ble.

CHAP. 243.

AN ACT making further provisions relative to encroachments upon highways.

PASSED April 15, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Proceedings upon hearing before jury.

§ 1. Upon the hearing before a jury, as provided in section one hundred and six of article fifth, title first, chapter sixteenth and part first of the Revised Statutes, the justice who has issued the precept to such party shall preside at the trial, in the same manner as upon the trial of an issue joined in a civil action commenced before him; six of the jurors summoned shall be drawn and empaneled in the same manner as upon trial by jury in civil action before him, and he shall have the power and it shall be his duty to decide as to the competency of jurors, the competency and admissibility of evidence, and all other questions which may arise before him, in the same manner and with the like effect as upon a jury trial in civil actions before him; and such justice shall adjust and determine the costs of such inquiry, and in case the jury shall find an encroachment, he shall render and docket a judgment to that effect, and for such costs against the person or persons who shall have denied such encroachment; in case the jury find no encroachment, he shall render and docket a judgment to that effect against the commissioner or commissioners prosecuting the proceedings, and also for such costs, together with the damages, if any, which may have been fixed by the jury, and payment thereof shall be enforced by such justice, as in other cases of judgments rendered by him.

Judgment to be rendered.

Right of appeal.

§ 2. The person or party against whom such judgment shall be rendered, may, within sixty days after filing the certificate of the jury, appeal from the finding and judgment to the county court of the same county; such appeal shall be made by the service, within twenty days after the docketing of said judgment, of notice of appeal upon the justice and upon the successful party or parties, or one of them, stating the grounds of such appeal. It shall be the duty of such justice, in his return to such appeal, to embrace copies of all the papers made and served in the proceeding prior to issuing the precept for such jury, and all the evidence and proceedings before him, together with the finding of the jury and judgment entered thereon. All the provisions of title eleven, chapters third and fifth of the Code of Procedure are hereby extended to such appeals, so far as the same are applicable thereto.

Provisions of title 11, chapters 3 and 5 of code applied.

Proceedings on appeal.

§ 3. In case the decision of the jury finding an encroachment shall be affirmed by the appellate court, such court, in

addition to the costs now allowed by law, may in its discretion order judgment against the appellant for the penalties provided by section one hundred and four of article one, title one, chapter sixteen, part first of the Revised Statutes aforesaid, for such period as shall intervene between the time fixed for the removal of fences, as provided by section one hundred and seven of the said article, title and chapter, and the decision of such appeal; and in case of the continued neglect or refusal of the occupant, after judgment, to make such removal, the court rendering judgment may, by order from time to time, enforce the additional penalties incurred, or may provide for the removal of such fences at the expense of the occupant, payment of such expense to be enforced by order. Such applications to be made according to the usual practice of the court.

Penalties
incurred
after judg-
ment, how
enforced.

§ 4. This act shall apply to all proceedings now pending in relation to encroachments upon highways, where a hearing has not already taken place, and all acts or parts of acts inconsistent with this act are hereby repealed, so far as proceedings had or continued under this act are concerned.

Applied to
pending
proceed-
ings—cer-
tain acts re-
pealed.

CHAP. 459.

AN ACT to prevent animals from running at large in the public highways.

PASSED April 23, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall not be lawful for any cattle, horses, sheep and swine to run at large in any public highway in this state.

§ 2. It shall be lawful for any person to seize and take into his custody and possession any animal which may be in any public highway, and opposite to land owned and occupied by him, contrary to the provisions of the foregoing section. And it shall be lawful for any person to take into his custody and possession any animal which may be trespassing upon premises owned or occupied by him.

Animals
running at
large may
be seized.

35 N. Y., 304; 41 B., 562; 44 B., 472.

§ 3. Whenever any such person shall seize and take into his custody and possession any animal under the authority of the next preceding section, it shall be the duty of such person to give immediate notice thereof to a justice of the peace or a commissioner of highways of the town in which such seizure and possession shall have been taken; and such justice or commissioner shall thereupon give notice by affixing the same in six public and conspicuous places in said town, one of which shall be the district school house nearest the residence of such justice or commissioner, that such animal or animals will be sold at public auction, at some convenient place in said town, not less than fifteen nor more than thirty days from

Proceed-
ings
thereon.

PART I.

the time of the affixing of such notice, to be specified in such notice, the said justice or commissioner shall proceed to sell the said animal or animals for cash, and out of the proceeds thereof shall, in the first place, retain the following fees and charges for his services in giving said notice and making said sale, viz.: For every horse sold, one dollar; for every cow or calf, or other cattle, one half dollar; and for every sheep or swine, fifty cents; and shall then pay to the person who shall have seized the said animal or animals the sum following, that is to say: For every horse so seized and sold, one dollar; for every cow or calf, or other cattle, one half dollar; and for every sheep or swine, twenty-five cents; together with a reasonable compensation, to be estimated by such justice or commissioner, for the care and keeping of said animal or animals from the seizure thereof to the time of the sale. If there shall be any surplus moneys arising from said sale, the said justice or commissioner shall retain the same in his hands, and pay the same to the owner or owners of said animal or animals, after a reasonable demand therefor and satisfactory proof of such ownership, provided such owner or owners shall appear and claim such surplus moneys within one year after such sale. And if the owner or owners of such animal or animals shall not appear and demand such surplus moneys within one year after such sale has been made, he shall be forever precluded from recovering any part of such moneys; and the same shall be paid to the supervisor of the town for the use of the town; and his receipt therefor shall be a legal discharge to said justice or commissioner.

Right of
owner of
any animal
seized.

§ 4. Any owner of any animal which shall have been seized under and pursuant to the foregoing provisions, may, at any time before the sale thereof, demand and shall be entitled to the possession of such animal, upon the payment to him of the several sums hereinbefore required to be paid the said justice or commissioner, and to the person by whom the seizure aforesaid shall have been made, together with a reasonable compensation to the person making such seizure, for the care and keeping such animal, to be estimated and fixed by such justice or commissioner, and upon making, to such justice or commissioner, satisfactory proof of ownership. And if such owner shall make such demand and proof, at least three days before the time appointed for such sale, he shall be entitled to the custody and possession of said animal, upon paying one-half of the several sums above mentioned, together with the whole amount of compensation awarded by the said justice or commissioner.

Ibid.

§ 5. In case the animal so seized under the foregoing provisions of this act, shall have been so running at large or trespassing, by the wilful act of any other person than the owner, to effect that object, such owner shall be entitled to the possession of such animal by making the demand therefor and the proof required in the next preceding section, and

paying to the person making such seizure the amount of compensation fixed by such justice or commissioner, for the care and keeping of such animal, and without paying any other charges. And the person committing such wilful act shall be liable to a penalty of twenty dollars, to be recovered in an action at law at the suit of the owner of such animal or the person making such seizure.

§ 6. All acts or parts of acts inconsistent herewith are hereby repealed. Repeal.

CHAP. 262.

AN ACT in relation to turnpike roads and toll bridges.

PASSED April 18, 1838.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any turnpike corporation shall become dissolved, or the road discontinued, its road shall become a public highway and be subject to all the legal provisions regulating highways. Turnpikes when to become highways.

§ 2. It shall be lawful for any corporation or individual owning a toll bridge to put up at each end thereof, in a conspicuous place, a notice in the following words in large characters: "One dollar fine for riding or driving faster than a walk on this bridge," and during the continuance of such notice, any person who shall ride or drive faster than a walk on such bridge shall forfeit the sum of one dollar, to be sued for in the name of the corporation or person or persons owning such bridge, and to be recovered with costs of suit. Notice on toll bridges

§ 3. Whenever a corporation owning a toll bridge shall become dissolved, such bridge shall be left without waste or damage and shall be a public highway. Bridges to become highways.

CHAP. 210.

AN ACT to provide for the incorporation of companies to construct plank roads, and of companies to construct turnpike roads.

PASSED May 7, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any number of persons not less than five, may be formed into a corporation, for the purpose of constructing and owning a plank road, or a turnpike road, by complying with the following requirements: Notice shall be given in at least one newspaper, printed in each county through which said Corporation how to be created.

PART I.

road is intended to be constructed, of the time and place or places where books for subscribing to the stock of such road will be opened; and when stock to the amount of at least five hundred dollars for every mile of the road so intended to be built, shall be in good faith subscribed, then the said subscribers, may, upon due and proper notice, elect directors for the said company; and thereupon, they shall severally subscribe articles of association, in which shall be set forth the name of the company, the number of years that the same is to continue, which shall not exceed thirty years from the date of said articles; whether it is a plank road or a turnpike, which the company is formed to construct; the amount of the capital stock of the company; the number of shares of which the said stock shall consist; the number of directors, and their names, who shall manage the concerns of the company for the first year, and shall hold their offices until others are elected; the place from and to which the proposed road is to be constructed; and each town, city or village into or through which it is intended to pass, and its length, as near as may be. Each subscriber to such articles of association, shall subscribe thereto his name and place of residence, and the number of shares of stock taken by him in said company. The said articles of association may, on complying with the provisions of the next section, be filed in the office of the secretary of state, and thereupon, the persons who have so subscribed, and all persons who shall from time to time, become stockholders in such company, shall be a body corporate, by the name specified in such articles, and shall possess the powers and privileges, and be subject to the provisions contained in titles three and four of chapter eighteen, of the first part of the Revised Statutes.

As amended by Laws of 1849, ch. 250. Post, p. 576.

24 N. Y., 150; 21 N. Y., 17; 11 N. Y., 386; 21 B., 466; 18 B., 319; 16 B., 17; 12 B., 555; 7 B., 160.

Articles of
association when
to be filed.

§ 2. Such articles of association shall not be filed in the office of the secretary of state, until five per cent on the amount of the stock subscribed thereto, shall have been actually and in good faith paid, in cash, to the directors named in such articles, nor until there is endorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in such articles, that the amount of capital stock required by the first section has been subscribed, and that five per cent on the amount has actually been paid in.

21 B., 65; 20 B., 155.

Copy to be
evidence.

§ 3. A copy of any articles of association filed in pursuance of this act with a copy of the affidavit aforesaid indorsed thereon or annexed thereto, and certified to be a copy by the secretary of this state or his deputy, shall in all courts and places be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Company to
make ap-

§ 4. Whenever any such company shall be desirous to con-

struct a plank road or turnpike road through any part of any county, it shall make application to the board of supervisors of such county at any meeting thereof legally held, for authority to lay out and construct such road, and to take the real estate necessary for such purpose; and the application shall set forth the route and character of the proposed road as the same shall have been described in the articles of association filed as aforesaid. Public notice of the application shall be given by the company previous to presenting the same to such board by publishing such notice once in each week for six successive weeks in all the public newspapers printed in such county, or in three of such newspapers if more than three are published in such county, which notice shall specify the time when such application will be presented to such board, the character of the proposed road, and each town, city and village in or through which it is proposed to construct the same.

CHAP. XVI.
Application to
supervisors.

§ 5. If such company shall desire a special meeting of the board of supervisors for hearing the same, any three members of such board may fix the time of such meeting, and a notice thereof shall be served on each of the other supervisors of the county, by delivering the same to him personally or by leaving it at his place of residence at least twenty days before the day appointed for such meeting. The expenses of such special meeting and of notifying the members of such board thereof, shall be paid by such company.

Special
meeting of
supervisors.

§ 6. Upon the hearing of the said application, all persons residing in such county or owning real estate in any of the towns through which it is proposed to construct such road, may appear and be heard in respect thereto. Such board may take testimony in respect to such application, or may authorize it to be taken by any judicial officer of such county, and it may adjourn the hearing from time to time.

Owners of
land may
be heard.

§ 7. If after hearing such application such board shall be of the opinion that the public interests will be promoted by the construction of such road on the proposed route as shall be described in the application, it may, if a majority of all the members elected to such board shall assent thereto, by an order to be entered in its minutes, authorize such company to construct such a road upon the route specified in the application, and to take the real estate necessary to be used for that purpose, a copy of which order certified by the clerk of such board the said company shall cause to be recorded in the clerk's office of such county before it shall proceed to do any act by virtue thereof.

Application
when to be
assented to
by supervisors.

§ 8. Whenever any such board shall grant such an application, it shall appoint three disinterested persons who are not the owners of real estate in any town through which such road shall be proposed to be constructed, or in any town adjoining such town, commissioners to lay out such road; the said commissioners after taking the oath prescribed by the

Commissioners to
be appointed
to lay out road.

PART I.

constitution shall proceed without unnecessary delay to lay out the route of such road in such manner as in their opinion will best promote the public interest; they shall hear all persons interested who shall apply to them to be heard, they may take testimony in relation thereto, they shall cause an accurate survey and description to be made of such route and of the land necessary to be taken by such company for the construction of such road and the necessary buildings and gates, they shall subscribe such survey and acknowledge its execution as the execution of deeds is required to be acknowledged, in order that they may be recorded, and they shall cause such survey to be recorded in the clerk's office of such county. If such company shall intend to construct its road continuously in or through more than one county, such application shall specify the number of commissioners which the company desire to have appointed to lay out such road, which shall not exceed three for each county, and an equal number of such commissioners shall be appointed by the board of supervisors of each county in or through which it shall be proposed to construct such road, but the whole number of such commissioners shall not be less than three, nor without the consent of such company shall it exceed six, unless the number of counties in or through which it is proposed to construct such road shall exceed that number. And the commissioners so appointed shall lay out the whole of such road, and shall make out a separate survey of so much thereof as lies in each county, which shall be subscribed and acknowledged as aforesaid and recorded in the county clerk's office of such county. Such company shall pay each of the said commissioners two dollars for every day spent by him in the performance of his duties as such commissioner, and his necessary expenses. Post, p. 573.

Provision
respecting
orchards,
&c.

§ 9. No such road shall be laid out through any orchard to the injury or destruction of fruit trees, or through any garden without the consent of the owner thereof, if such orchard be of the growth of four years or more, or if such garden has been cultivated four years or more before the laying out of such road, nor shall any such road be laid out through any dwelling house or buildings connected therewith, or any yards or enclosures necessary for the use and enjoyment of such dwelling without the consent of the owner, nor shall any such company bridge any stream where the same is navigable by vessels or steamboats, or in any manner that will prevent or endanger the passage of any raft of twenty-five feet in width.

Roadway
of turnpike
when to be
used.

§ 10. No plank road shall be made on the roadway of any turnpike company without the consent of such company; and any plank road company formed under this act shall have power to contract with any turnpike company connecting therewith for the purchase of the roadway, or part of the roadway, or the stock of such turnpike company, on such

terms as may be mutually agreed upon, and in case the purchase of such stock of such turnpike road company, such stock shall be held by such plank road company for the benefit of the stockholders of such plank road company in proportion to the amount of stock held by each stockholder in such plank road company at the time of such purchase or at any time afterwards. Upon and after the purchase of the whole of the stock of such turnpike road company by such plank road company, the directors of such plank road company for the time being, and their successors, shall be the sole directors of such turnpike road company, and shall manage the affairs thereof pursuant to the charter of such turnpike road company, and shall render an account of the same annually to the stockholders of such plank road company. In case of a dissolution of such plank road company, the stockholders of such plank road company at the time of such dissolution shall be the stockholders of such turnpike road company in proportion to the amount of stock held by each in said plank road company; and from thenceforward the stock of such turnpike road company shall be deemed divided into shares equal in number to the shares of stock of such late plank road company, and scrip therefor shall be issued accordingly to each of the last stockholders of such plank road company. Whereupon the officers of such turnpike road company shall be the same in number and power as provided for in the charter of such turnpike road company, and shall be chosen by such former stockholders of such plank road company or their assigns, each share of stock as above provided for entitling the holder thereof to one vote. After such purchase of the stock of such turnpike road company, and prior to the dissolution of such plank road company, the assignment of stock in said plank road company shall carry with it its proportional amount of the stock in such turnpike road company, and entitle the holder thereof to his share of the dividends derived from such turnpike road. Whenever a plank road shall be made as provided in this act on or adjoining a route of any turnpike road, the company owning such turnpike road is authorized to abandon that portion of their road on or adjoining the route of which a plank road is actually constructed and used; but nothing herein contained shall be so construed as to prevent any plank road from crossing any turnpike road, nor any turnpike road from crossing any plank road.

In case of
dissolution.

Thus amended by Laws of 1857, ch. 643.

§ 11. The route so laid out and surveyed by the said commissioners shall be the route of such road, and such company may enter upon, take and hold, subject to the provisions of this act, all such lands as the said survey shall describe as being necessary for the construction of such road and the necessary buildings and gates. But before entering upon any of such lands, the company shall purchase the same of the owners thereof, or shall, pursuant to the provisions

Company
may take
possession
of land.

PART I.

of this act, acquire the right to enter upon, take and hold the same.

Where land
cannot be
purchased,

§ 12. If any owner of such land shall from any cause be incapable of selling the same, or if such company cannot agree with him for the purchase thereof, or if after diligent inquiry the name or residence of any such owner cannot be ascertained, the company may present to the first judge or county judge of the county in which the lands of such owner lie, a petition setting forth the grounds of the application, a description of the lands in question and the name of the owner if known, and the means that have been taken to ascertain the name and residence of such owner, if his name and residence has not been ascertained, and praying that the compensation and damages of the owner of the lands described in the petition may be ascertained by a jury. Such petition shall be verified by the oaths of at least two of the directors of the company, and if it shall allege that the name or residence of any owner is unknown, it shall be accompanied by affidavits proving to the satisfaction of the said judge that all reasonable efforts have been made by the company to ascertain the name and residence of any owner whose name or residence is unknown.

Case to be
submitted
to a jury.

§ 13. On receiving such petition, the said judge shall appoint a time for drawing such jury which shall be drawn from the grand jury box of the county by the clerk thereof, at his office. At least fourteen days' notice of the time and place of such drawing shall be served personally upon each owner of lands described in the petition, who shall be known and reside in the county where the lands lie or by leaving the same at his residence, and such notice shall be served on all other owners in the manner aforesaid or by putting the same into the post office directed to them at their respective places of residence and paying the postage thereon, or by publishing the same once in each week for two successive weeks in a newspaper printed in such county, the first of which publications shall be at least fourteen days before such drawing.

Provision
in case of
married
women, &c.

§ 14. In case any lands described in such petition shall be owned by a married woman, infant, idiot or insane person, or by a non-resident of the state, the said judge shall appoint some competent and suitable person having no interest adverse to such owner to take care of the interests of such owner in respect to the proceedings to ascertain such compensation and damages. And all such notices as are required to be served on any owner residing in such county, shall be served upon the person so appointed in like manner as on such owner; but any person so appointed to take care of the interests of any such non-resident may be superseded by him.

Drawing
and sum-
moning
jury.

§ 15. The said judge shall attend such drawing and shall decide upon any challenge made to any juror drawn by any person interested. Twenty-four competent and disinterested jurors and as many more as the said judge shall direct shall

be drawn; the clerk shall make, certify and deliver to the judge and to any party requiring the same a list of them, and the ballots drawn shall be returned to the box. The said judge if he shall deem it necessary, may at any subsequent time direct the drawing of an additional number of jurors, and they shall be drawn, and all proceedings in relation to such drawing shall be had in the manner hereinbefore provided. Before proceeding to draw any such jury the company shall furnish to the said judge proof by affidavit satisfactory to him, of the time and manner of serving and publishing notice of such drawing, which affidavit shall be filed in such clerk's office; and no such jury shall be drawn unless it shall appear to the satisfaction of the said judge that the provisions of this act in respect to giving notice of such drawing have been complied with.

§ 16. From the jurors so drawn the said judge shall draw as many as he shall deem necessary to secure the attendance of twelve, and he shall issue his precept directed to the sheriff of such county, either of his deputies or any constable of such county to summon the jurors so drawn by the said judge, to attend at the time and place therein specified to ascertain such compensation and damages. And he may from time to time, in case of the absence or inability to serve of any juror directed to be summoned, draw and direct to be summoned as aforesaid, as many as may be necessary in his opinion to secure the attendance of twelve.

Number of jurors to be drawn.

§ 17. Every juror named in any such precept, shall, at least four days before the day therein specified for his attendance, be summoned personally, or by leaving at his residence, a notice containing the substance of such precept. The officer serving such precept, shall return it to the said judge, with an affidavit of the manner of serving the same, and of the distance necessarily traveled by him for that purpose; and such officer shall receive for making such service, six cents a mile for the distance so traveled.

Jurors when and how summoned.

§ 18. Every juror so summoned, who shall neglect or refuse to attend or serve, in pursuance of such summons, shall be liable to the same penalties, as in case of such neglect or refusal of a person duly summoned as a juror in a court of record, and may be excused by the said judge from attending or serving, for reasons for which such juror might be so excused if summoned as a juror in such court. Every juror attending, shall be entitled therefor to one dollar a day, and his reasonable and necessary expenses to be paid by the company.

Penalty for neglect.

§ 19. On the application of any party interested, any judge or justice of the peace, may issue a subpoena requiring witnesses to attend before such jury, and such subpoena shall have the same force and effect; and witnesses duly subpoenaed by virtue thereof, and refusing or neglecting to obey the same, shall be subject to the same penalties and liabilities as

Witnesses may be subpoenaed.

PART I.

Notice to
be given to
owners of
land.

though such subpoena were issued from a court of record, in a suit pending therein.

§ 20. The time and place of meeting of the jury, to ascertain such compensation and damages, may be fixed by the said judge, by an order to be made by him at any time after receiving such petition; and notice thereof shall be served on the owners whose lands are described in the petition, as follows: on any owner residing in the county, or within fifteen miles of the lands in question owned by him, personally, or by leaving the same at his residence, at least fourteen days before the time so fixed; on any other owner residing within this state, and whose residence is known, in the manner aforesaid, or by putting the notice into the post-office directed to him at his place of residence, and paying the postage thereon; on any owner residing out of the state, and not within fifteen miles of the lands in question, owned by him, by putting the notice in the post-office directed and paid as aforesaid, at least forty days before the time so fixed; and on owners whose residence is unknown; by publishing the notice once in each week for six successive weeks, in one of the public newspapers printed in the county.

Duty of
jury.

§ 21. The jurors so summoned, shall meet at the time and place fixed by the said judge for that purpose, and shall be sworn by him to diligently enquire and ascertain the compensation and damages which ought justly to be paid for the land described in the petition, or for those of them in respect to which they shall be called upon to enquire, to the owners thereof, and for taking the same for such road, and faithfully to perform their duty as such jurors, according to law.

Duty of
judge.

§ 22. The said judge shall attend such jurors, shall administer oaths to witnesses called before them, shall take minutes of the testimony given, and admissions of the parties made before them, shall advise such jury as to the law applicable to any case that may arise, shall receive, certify and return to the county clerk's office, the verdicts agreed upon by them, and while so attending, shall have all the powers possessed by a court of record, when trying issues of fact joined in civil cases.

Damages to
be awarded.

§ 23. The jury after hearing the parties, and viewing the lands in question, in each case, shall, by a verdict, ascertain and determine the compensation and damages that ought to be paid to the owner for the land, to be taken by the company, and for taking the same for such road, and also the amount that ought to be paid to him for the time spent, and necessary expenses incurred by him in respect to the proceedings, to ascertain and determine such compensation and damages, of which time and expenses, a bill of items shall be presented to the jury, verified by the oath of the owner or his agent, and such compensation and damages shall be ascertained and determined without any deduction on account of any real or

supposed benefit, which the owners of such lands may derive from the construction of such road.

§ 24. Such jury shall not proceed to a hearing in any case until the company shall have produced to the said judge, satisfactory proof by affidavit, that the notice of the meeting of the jury has been given in such case, according to the provisions of this act; and such affidavit shall be attached to and filed with the certificate of the verdict in the case. And on any such hearing, no evidence or information shall be given, nor any statement made to the jury, of any proposition by, or negotiation between the parties or their agents, in respect to any such lands, or such compensation or damages, nor shall any such petition contain any such statement or information.

Proof of notice to be produced.

§ 25. Such jury, finding any such verdict, shall, after agreeing upon the same, make a certificate thereof, and sign and deliver the same to the said judge; and shall embrace therein a particular description of the land, in respect to which it is found. Such certificate may include one or more verdicts, in the discretion of the jury. Every such certificate shall be certified by the judge, to have been made by such jury; and shall be recorded in the records of deeds, in the clerk's office of the county where the lands therein described shall lie, at the expense of the company.

Jury to make certificate.

§ 26. Whenever it shall become necessary for any such company, to use any part of a public highway for the construction of a plank or turnpike road, the supervisor and commissioners of highways of the town in which such highway is situated, or a majority, if there be more than one such commissioner in such town, may agree with such company, upon the compensation and damages to be paid by said company, for taking and using such highway for the purposes aforesaid. Such agreement shall be in writing, and shall be filed and recorded in the town clerk's office of such town. In case such agreement cannot be made, the compensation and damages for taking such highway for such purpose, shall be ascertained in the same manner, as the compensation and damages for taking the property of individuals. Such compensation and damages shall be paid to the said commissioners, to be expended by them in improving the highways of such town.

Provision in case of using highways.

13 N. Y., 530; 3 B., 468; 31 N. Y., 58.

§ 27. Any party interested in any such verdict, may, within twenty days after being notified of the rendition thereof, apply to the supreme court for a new trial, and it may be granted upon such terms as to the costs of the application and of the first trial, as that court shall deem reasonable. If a new trial shall be granted, a jury shall be drawn therefor, and the same proceedings shall be had as are hereinbefore provided.

New trial may be applied for.

§ 28. Within forty days after the rendition of any such verdict, if a new trial shall not be applied for, the company shall pay to the person entitled to receive the same the amount thereof, or shall make a legal tender thereof to him, if he shall

Money when to be paid.

PART I.

refuse to receive the same; and the company may thereupon enter upon the lands in respect to which such verdict was rendered, and take and hold the same to it and its assigns, so long as it shall be used for the purposes of such a road as such company was formed to construct.

Provision
in cases of
non-resi-
dents.

§ 29. If any person entitled to receive the amount of any such verdict be not a resident of this state, or cannot be found therein after diligent search, the company may furnish to the said judge satisfactory proof, by affidavit, of such fact, and he shall thereupon make an order that the amount of such verdict be paid to the treasurer of the county in which the lands lie, in respect to which such verdict was found for the use of such owner, and that notice of such payment shall be given by publishing the same once in each week, for six successive weeks in a newspaper published in the county. On satisfactory proof being made to the said judge, by affidavit, within three months from the time of making the last mentioned order, of such payment and publication, he shall make an order authorizing the company to take and hold the land in respect to which such verdict was rendered, in the same manner and with the same effect as if such payment had been made to the owner personally. The affidavit and orders mentioned in this section, and all other affidavits and orders made, and precepts issued in the course of the proceedings under this act, in relation to the acquisition of the land to be used for such road, shall be filed in the county clerk's office and all such orders shall be recorded by such clerk in the records of deeds, at the expense of the company.

Land to be
taken and
money de-
posited in
certain
cases.

§ 30. If any owner shall apply for a new trial, the company, upon depositing the amount of the verdict sought to be set aside, in such manner as the said judge shall, upon hearing the parties, direct, in trust that the same or so much thereof as the said owner shall be entitled to receive, shall be paid to him on demand, and on giving such security, by bond, as the judge shall approve, for the payment to such owner of any sum which he may be entitled to receive from the company, in respect to the land in question, by reason of any verdict or the judgment of any court, for such compensation, damages, costs and expenses, the company may enter upon and use such lands for the purposes of such road, but the title of the owner thereof shall not be divested until the payment or legal tender to him of the whole amount which he shall be entitled to receive from the company for such compensation, damages, costs and expenses; and on such payment or tender being made, the company shall be entitled to take and to hold such lands to it and to its assigns so long as the same shall be used for the purposes of such a road, as such company was formed to construct.

Width of
plank roads

§ 31. Every plank road made by virtue of this act, shall be laid out at least four rods wide, and shall be so constructed as to make, secure and maintain a smooth and permanent

road, the track of which shall be made of timber, plank, or other hard material, so that the same shall form a hard and even surface, and be so constructed as to permit carriages and other vehicles conveniently and easily to pass each other and also, so as to permit all carriages to pass on and off where such road is intersected by other roads.

§ 32. Every turnpike road that shall be constructed by virtue of this act, shall be laid out at least four rods wide; and shall be bedded with stone, gravel, or such other material as may be found on the line thereof, and faced with broken stone or gravel, so as to form a hard and even surface, with good and sufficient ditches on each side wherever the same is practicable. The arch or bed of such road shall be at least eighteen feet wide, and shall be so constructed as to permit carriages and other vehicles conveniently to pass each other, and to pass on and off such turnpike where it may be intersected by other roads.

Width of
turnpike
roads.

§ 33. In each county of this state, in which there shall be any plank road, or turnpike road, constructed by virtue of this act, there shall be three inspectors of such roads, who shall not be interested in any plank or turnpike road in such county. They shall be appointed by the board of supervisors of the county, and shall hold their offices during the pleasure of such board. Before entering on their duties, such inspectors shall take and subscribe the constitutional oath of office, and file the same in the office of the clerk of the county.

Inspectors
to be ap-
pointed.

§ 34. Whenever any such company shall have completed their road, or any five consecutive miles thereof, it may apply to any two of the inspectors to be appointed pursuant to this act, in the county where said road or a part thereof, so completed and to be inspected is located, to inspect the same; or if such inspectors, or a majority of them, are satisfied on inspection, that the road so inspected is made and completed according to the true intent and meaning of this act, they shall grant a certificate to that effect, which shall be filed in the office of the county clerk. The inspectors shall be allowed two dollars per day for their services pursuant to this section, to be paid by the company whose road they inspect.

To inspect
roads and
file certifi-
cate.

14 N. Y., 551.

§ 35. Upon filing as aforesaid such certificate, the company owning any plank road so inspected, may erect one or more toll gates upon their road, and may demand and receive toll, not exceeding one and a half cents per mile, for any vehicle drawn by two animals, and for any vehicle drawn by more than two animals, one half cent per mile for every additional animal; for every vehicle drawn by one animal, three-quarters of a cent per mile; for every score of sheep or swine, and for every score of neat cattle, one cent per mile; for every horse and rider, or led horse, half a cent per mile.

Rates of
toll to be
charged.

As amended by Laws of 1849, ch. 250, and Laws of 1854, ch. 87.
Post, p. 675, 582, 580. 14 N. Y., 551; 7 B., 627.

PART I
Toll gates
to be
erected.

§ 36. Upon filing such certificate as aforesaid, the company owning any turnpike road so inspected, may erect one or more toll gates upon its road, and may demand and receive toll not exceeding the following rates: For every vehicle drawn by one animal, three-quarters of a cent a mile; for every vehicle drawn by two animals, one and one-quarter cents a mile; and for every vehicle drawn by more than two animals, one and one-quarter cents a mile; and one-quarter cent additional a mile for every animal more than two; for every score of neat cattle, one cent a mile; for every score of sheep or swine, one-half cent a mile; and in the same proportion for any greater or less number of neat cattle, sheep or swine; for every horse and rider, or led horse, one-half cent a mile: And in no case shall any such turnpike company charge or receive rates of toll which will enable it to divide more than twelve per cent. on its capital stock actually paid in, in cash, and invested in its road, after paying the expenses of managing the same, and keeping it in repair.

23 N. Y., 553. As amended by Laws of 1864, ch. 87. Post, p. 582.

Location of
gates how
changed.

§ 37. The commissioners of highways of any town in which a toll gate may be located on any such road, or in an adjoining town, whenever they, or a majority of them, shall be of the opinion that the location of such gate is unjust to the public interest, by reason of the proximity of diverging roads, or for other reasons, may, on at least fifteen days' written notice to the president or secretary of the said company, apply to the county court of the county in which such gate is located, for an order to alter or change the location of the said gate; the court, on such application, and on hearing the respective parties, and on viewing the premises, if the said court shall deem such view necessary, shall make such order in the matter, as to the said court may seem just and proper; and either party may, within fifteen days thereafter, appeal from such order to the supreme court, on giving such security as said county judge shall require: Such order, unless appealed from, shall be observed by the respective parties, and may be enforced by attachment or otherwise, as the said court shall direct: And if appealed from, the decision of the supreme court shall be final in the matter: The said county and supreme court, may direct the payment of costs in the premises, as shall be deemed just and equitable.

10 N. Y., 353; 15 B., 136.

Board of di-
rectors to
manage the
affairs.

§ 38. The business and property of such company, shall be managed and conducted by a board of directors, consisting of not less than five nor more than nine, who, after the first year shall be elected at such time and place as shall be directed by the by-laws of such corporation, and public notice shall be given of the time and place of holding such election, not less than twenty days previous thereto, in a newspaper printed in each county in or through which the road of such company is located; the election shall be made by such of the stockholders

as shall attend for that purpose, either in person or by proxy; all elections shall be by ballot, and each stockholder shall be entitled to as many votes as he shall own shares of stock, and the persons having the greatest number of votes, shall be directors; whenever any vacancy shall happen in the board of directors, such vacancy shall be filled for the remainder of the year by the remaining directors; the directors shall hold their office for one year and until others are elected in their places; no person shall be a director unless he is a stockholder in the company, and no stockholder shall be permitted to vote at any election for directors, on any stock except such as he has owned for the thirty days next previous to the election.

§ 39. The directors of any company incorporated under this act, may require payment of the sums subscribed to the capital stock, at such times, and in such proportions, and on such conditions as they shall see fit, under the penalty of the forfeiture of their stock, and all previous payments thereon; and they shall give notice of the payments thus required, and of the place and time, when and where the same are to be made, at least thirty days previous to the payment of the same, in one newspaper printed in each county, in or through which their road is located, or by sending such notice to such stockholder by mail, directed to him at his usual place of residence.

Calls may be made on stockholders.

21 B., 64.

§ 40. The shares of any company formed under this act, shall be deemed personal property, and may be transferred as shall be prescribed by the by-laws of such company; the directors of every such company, may, at any time, with the consent of a majority, in amount, of the stockholders in such company, provide for such increase of the capital stock of such company as may be necessary to finish the making of a road actually commenced and partly constructed, but the whole capital stock of any company, shall not exceed five thousand dollars per mile, for each mile of road.

Shares transferable.

Increase of capital

§ 41. It shall be the duty of the directors of every company formed under this act, to report annually, to the secretary of state, under the oath of any two of such directors, the cost of their road, the amount of all money expended, the amount of their capital stock, and how much paid in, and how much actually expended; the whole amount of tolls or earnings expended on such road; the amount received during the year, for tolls, and from all other sources, stating each separately, the amount of dividends made, and the amount set apart for a reparation fund, and the amount of indebtedness of such company, specifying the object for which the indebtedness accrued.

Annual report to be made to secretary of state.

§ 42. Within two weeks after the formation of any company, by virtue of this act, the directors thereof shall designate some place within a county, in which, according to the articles of association of such company, its road, or some part thereof, is to be constructed, as the office of such company; and shall

Office of company to be located.

PART I.

struct its road in any county, and shall have constructed the same without making the application mentioned in the fourth section of the said chapter, it shall possess the same rights, powers and privileges and be subject to the same duties and liabilities in respect to its road and to the part thereof so constructed as if such application had been made, and all the proceedings of such company had been had pursuant to the provisions of the said chapter.

Saving
clause.

§ 4. Nothing in this act contained shall be deemed or construed to authorize the laying out or construction of any road in the cases specified in section nine of said chapter two hundred and ten of the laws of 1847, nor to authorize the bridging or obstructing of any stream navigable by vessels or steamboats.

CHAP. 45.

AN ACT for the appointment of inspectors of turnpikes in the several counties of this state.

PASSED Feb. 17, 1848.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Inspectors
to be ap-
pointed in
each county

§ 1. There shall be appointed in the several counties of this state, in which there is or may be a turnpike road, whose act of incorporation contains no provision for protecting the public against the company taking toll when the road is out of order, not less than three nor more than five inspectors of turnpike roads.

By the
boards of
supervi-
sors.

§ 2. The said inspectors of turnpikes shall be appointed by the boards of supervisors of the several counties, at any meeting thereof, and shall hold their offices for two years.

Their pow-
ers and
duties.

§ 3. The said inspectors of turnpikes, when appointed, shall possess the same powers, perform the same duties, receive the same compensation, and be subject to the same restrictions, penalties and liabilities in all respects as is now provided by title one, article fourth, chapter eighteen, part one, of the Revised Statutes.

CHAP. 259.

AN ACT to provide for the incorporation of Bridge Companies.

PASSED April 11, 1848.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Corpora-
tions may
be formed.

§ 1. Any number of persons not less than five, may be formed into a corporation, for the purpose of constructing

and owning a bridge across any stream of water as herein-after provided, upon complying with the following requirements:

1. They shall severally subscribe articles of association, in which shall be set forth the name of the corporation, the number of years the same is to continue, which shall not exceed fifty years; the amount of the capital stock of the corporation, which shall be divided into shares of twenty-five dollars each, the number of directors and their names, who shall manage the concerns of the corporation for the first year, and until others are elected; the location of such bridge, and the plan thereof:

Articles of association to be subscribed.

2. Each subscriber to such articles of association shall subscribe thereto his name and place of residence, and the number of shares of stock taken by him in such corporation.

Names and shares.

3. Whenever one fourth part of the amount of the capital stock, specified in the articles of association, shall have been subscribed, and on complying with the provisions of the next section, such articles may be filed in the office of the state engineer and surveyor, and clerk of the county or counties in which the bridge is built; and thereupon the persons who have subscribed the articles of association as aforesaid, and such other persons as shall become stockholders in such company, and their successors, shall be a body corporate, by the name specified in such articles of association, and shall possess the powers and privileges, and be subject to the provisions of titles three and four of chapter eighteen of the first part of the Revised Statutes, so far as those provisions are consistent with the provisions of this act.

Articles when and where to be filed.

§ 2. All the stockholders of every company incorporated under this act, shall be severally and individually liable, to an amount equal to the amount of the capital stock held by them respectively, to the creditors of such company, for all the debts contracted by the directors or agents of such company for its use, until the whole amount of the capital stock fixed and limited by such company is paid in, and a certificate thereof filed in the offices aforesaid, and the whole capital stock paid in, shall be one half thereof within one year, and the other half thereof, within two years from the time of the incorporation of such company, and if not so paid in, such corporation shall be dissolved. If the directors of any corporation formed under this act shall contract debts for the company, exceeding in the aggregate the amount of the capital stock, they shall be personally liable for all the debts of the corporation.

Liability of stockholders.

§ 3. Such articles of association shall not be filed as aforesaid, until five per cent on one fourth the amount of the stock of such company fixed as aforesaid shall have been actually paid in, in good faith, to the directors named in such articles of association, in cash, nor until there shall be endorsed thereon, or annexed thereto, an affidavit made by at least

Amount to be paid before filing articles.

PART I.

three of the directors named in such articles of association, that the amount of stock required by the first section of this act to be subscribed, has been subscribed, and that five per cent on the amount has been actually paid in as aforesaid.

Copy of articles to be evidence.

§ 4. A copy of such articles of association filed in pursuance of this act, with a copy of such affidavit endorsed thereon or annexed thereto, and certified to be a copy by the proper officer, shall, in all courts and places be presumptive evidence of the facts therein contained.

Election of directors.

§ 5. The business and property of every such corporation shall be managed and conducted by a board of directors, consisting of not less than five, nor more than nine, who shall be chosen, except those for the first year, at such place within a county in which the bridge of such corporation or some part thereof shall be located, as shall be prescribed by the by-laws thereof. The directors shall give notice of every such election, previous to the holding thereof, by publishing the same once in each week for four successive weeks, in a public newspaper, published in each county in which such bridge or any part thereof, shall be located, and if in any such county no such paper shall be published, such notice shall be published in some county adjoining such last mentioned county. All elections of directors shall be by ballot and by a majority of all votes given thereat; and every stockholder being a citizen of the United States and attending in person or by proxy, shall be entitled to one vote for each share of stock which he shall have owned absolutely, or as executor, administrator or guardian, for thirty days previous to such election. No person shall be a director unless he shall be a stockholder, owning at least four shares of stock, absolutely in his own right or as executor, administrator or guardian, and entitled to vote at the election at which he shall be chosen, nor unless he shall be a citizen of this state; and a majority of the directors shall, at the time of their election be residents of the county or counties in which such bridge shall be located.

Vacancies.

Whenever any vacancy shall happen in the board of directors, it shall be supplied until the next election by the remaining directors. The directors of every such company shall be elected in the same month, in each and every year, and such election after the first, shall be held on the first Tuesday of such month, and the directors chosen at any election shall hold their offices, to and including the Tuesday next after that appointed by law for holding the election next succeeding that at which they were chosen. If an election of directors shall not be held on the day prescribed by this act for holding the same, the directors in office on that day shall hold their offices until their successors shall be elected, but after the expiration of their regular term of office as prescribed by this section, they shall be incapable of doing any act, as such directors, except such as may be necessary to give effect to an election of directors. The provisions of the second article of the second

title of the eighteenth chapter of the first part of the Revised Statutes, shall apply to every corporation formed under this act, so far as such provisions shall be consistent with the provisions of this act.

§ 6. When any bridge corporation shall be desirous of constructing a bridge or any part thereof, in any county, it shall apply to the board of supervisors of such county at the annual or any special meeting thereof, for authority to construct such bridge; of which application, such corporation shall give notice, by publishing the same in at least one public newspaper in such county, or if no newspaper is published therein, then in an adjoining county, once in each week for six weeks successively, previous to the time of presenting such application to such board, specifying such time and the location of such proposed bridge. If the place of the location of such bridge shall be situated in more than one county, such application shall be made to the board of supervisors of every such county. Such application shall also specify the length and breadth of such bridge; and the notice of such application shall set forth all the particulars required to be specified in such application. Upon the hearing of the said application, all persons residing in such county or interested in such application, may appear and be heard in respect thereto. Such board may take testimony in respect to such application, or may authorize it to be taken by a county judge or justice of the peace of such county; and it may adjourn the hearing from time to time. A copy of the articles of association of such corporation certified by the state engineer and surveyor, or by the clerk where such articles are filed, shall be attached to and filed with such application. No such corporation shall be authorised to bridge any stream, in any manner that will prevent or endanger the passage of any raft of forty-five feet in width, or any ark where the same is navigated by rafts or arks. Post, p. 580.

Application to be made to board of supervisors for leave to erect bridges.

§ 7. If after hearing such application such board shall be of opinion that the public interests will be promoted by the construction of such bridge on the proposed site, it may, if a majority of all the members elected to such board, shall assent thereto, by an order to be entered in its minutes, authorise such company to construct such bridge, as shall have been specified in the application which shall be particularly described in such order. Such corporation shall cause a copy of such order certified by the clerk of such board, with a copy of such application, to be recorded in the clerk's office of such county, before it shall proceed to do any act by virtue thereof; and such board shall cause such application when it shall have finally acted on the same, to be filed at the expense of the corporation, with all the other papers relating thereto, or to the proceedings of said board thereon, in the office of the clerk of the county in which it shall have been made. Any corporation formed under this act, may use in such man-

Assent of the board to be recorded.

PART I.

ner as such board shall prescribe, so much of any public highway on either side of any stream, as may be necessary for the construction and maintenance of such bridge and toll houses.

Bridges and other streams navigable by rafts.

§ 8. In case any bridge shall be constructed under the provisions of this act, over any streams navigable by rafts, it shall be the duty of the corporation constructing such bridge, at all times to keep the channel of said stream both above and below said bridge, free and clear from all deposits in anywise prejudicial to the navigation thereof, which may be formed or occasioned by the erection of such bridge.

Penalty for delaying rafts.

§ 9. Any corporation organized under the provisions of this act, which shall construct any bridge over any stream, navigable by rafts as hereinbefore provided, shall be liable to pay all persons who may be unnecessarily or unreasonably hindered or delayed in passing such bridge, all damages which they shall sustain thereby, to be recovered with costs of suit.

Bridges how to be constructed and toll gates erected.

§ 10. Every bridge constructed by virtue of this act, shall be built with a good and substantial railing or siding, at least four and a half feet high. Whenever such bridge shall be completed, and a certificate signed by the county judge of the county in which such bridge is situated, or if such bridge shall be located in more than one county, by the county judge of each of such counties, and such certificate filed in the office of the clerk of such county or of each of said counties, if such bridge shall be located in more than one county, that such bridge is constructed and completed in a manner safe and convenient for the public use, the directors may erect a toll gate at such bridge, and demand and receive such sum as shall be from time to time prescribed by the supervisors of the county or counties where the bridge is located.

Exemptions from toll.

§ 11. No tolls shall be collected for crossing any bridge constructed by any corporation formed under this act, from any person going to or from public worship, or to or from a funeral, or to or from school, or to or from a town meeting or election, at which he is entitled to vote, for the purpose of giving such vote, and returning therefrom; or to or from a military parade which he is, by law required to attend, or to or from any court which he shall be required to attend as a juror or witness, or to or from his legally required work upon any public highway.

Calls on stockholders.

§ 12. The directors of any incorporation formed under this act, may require payment from the stockholders of the sums subscribed to the capital stock, at such times and in such proportions and on such conditions as they shall see fit, under the penalty of the forfeiture of their stock and all previous payments thereon; and they shall give notice of the payments thus required, and of the place and time when and where the same are to be made, at least thirty days previous to the time fixed for the payment of the same, for the time and in the manner hereinbefore prescribed for giving notice

of the election of directors, and by sending such notice to such stockholder by mail, directed to him at his usual place of residence.

§ 13. The shares of any corporation formed under this act shall be deemed personal property, and may be transferred in such manner as shall be prescribed by the by-laws of such corporation; and the directors of every such corporation may, at any time, with the consent of a majority in amount of the stockholders in such corporation provide for such increase of the capital stock thereof, as may be necessary for the completion or re-construction of such bridge, and the certificate of the amount of any such increase, within thirty days thereafter, shall be filed in the offices of the state engineer and surveyor, and the clerk or clerks of the county or counties in which such bridge is located, which certificate shall be authenticated by the signatures and oaths of a majority of said directors.

Transfers
of shares.

Increase of
capital.

§ 14. So much of any such bridge or toll houses constructed by virtue of this act, as shall be within any town, city or village, shall be liable to taxation in such town, city or village, as real estate.

Taxation.

§ 15. Every company incorporated under this act, shall cease to be a body corporate:

Companies
when to
cease to be
bodies cor-
porate.

1. If within two years from the filing of their articles of association, they shall not have commenced the construction of their bridge and actually expended thereon at least ten per cent of the capital stock of such company; or,

2. If within five years from the filing of such articles of association such bridge shall not be completed according to the provisions of this act; or,

3. If, in case the bridge of such company shall be destroyed, it shall not be re-constructed within three years thereafter.

§ 16. It shall be the duty of the president and secretary of every corporation formed under this act, to report annually to the state engineer and surveyor, and the county clerk where the papers are filed, under oath, the costs of their bridge, the amount of all money expended, the amount of their capital stock, and how much paid in, and how much actually expended, the amount received during the year for tolls, and from all other sources, stating each separately, the amount of dividends made, and the amount of indebtedness of such company, specifying the object for which the indebtedness accrued; and such other particulars in respect to the business affairs of such corporation, as the said state engineer and surveyor, or the legislature, or either branch thereof, require to be so reported.

Annual
reports to
be made.

§ 17. When any bridge may be in process of construction by private subscriptions at the time of the passage of this act, the subscribers may organize into a corporation pursuant to the provisions of this act, with the same power and privileges as if such bridge had not been so commenced.

Private
bridges.

PART I.
Companies
subject to
visitation.

§ 18. All companies formed under this act shall at all times be subject to visitation and examination by an officer or agent, in pursuance of law, or by the legislature, or by a committee, appointed by either house thereof; and the courts of this state shall have the same jurisdiction over such corporations and their officers as over those created by special acts.

Reports to
be made in
the month
of January
and penalty
for neglect.

§ 19. Every report required to be made by the sixteenth section of this act, shall be made in the month of January in each year, and shall show in respect to the particulars required therein to be set forth, the affairs and business of the corporation, making the same at the close of the year, ending on the thirty-first day of December, next preceding the time of making the same, and shall be published in the nearest newspaper four weeks, and every corporation formed under this act, which shall neglect to make such report as thereby required, shall forfeit to the people of this state for every such neglect the sum of two hundred dollars, and for every week such corporation shall neglect to make such report after the expiration of the time, within which it is required as aforesaid to make the same, it shall forfeit as aforesaid the further sum of fifty dollars. The state engineer and surveyor shall report to the attorney-general every such forfeiture, by whom the same shall be sued for and recovered with the costs in the name of the people; and the certificate of the said state engineer and surveyor of any such neglect shall be presumptive evidence thereof, and if any such river, water course or lake, now so navigable, shall hereafter be rendered navigable up stream by vessels or steamboats, power to require such bridge to be altered or removed is reserved to the legislature.

Saving
clause.

§ 20. Nothing in this act shall be construed so as to authorise the bridging of any river or water course where the tide ebbs and flows, or any water used for a harbor, any lake, river or water, which is navigable by sail vessels or steamboats, nor the construction of any bridge within the limits prescribed by any existing law for the erection or maintenance of any other bridge.

Privileges
of existing
bridge com-
panies.

§ 21. Any existing corporation having for its object the construction and maintenance of any bridge whose charter shall expire, may be continued as such corporation by complying with the provisions of this act, so far as the same are applicable to them, with the consent of the supervisors of the county or counties in which their bridge is located, to be obtained on application to them as herein before provided.

CHAP. 360.

AN ACT to amend an act entitled "An act to provide for the incorporation of companies to construct plank roads, and companies to construct turnpike roads," passed May 7th, 1847.

PASSED April 12, 1848.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The commissioners appointed by the board of supervisors, as provided in the eighth section of the act to provide for the incorporation of companies to construct plank roads, and of companies to construct turnpike roads, passed May seventh, 1847, are hereby authorized in laying out a plank road, to determine the distance that the outer limits of the road shall be apart, as they may judge necessary, provided, in no case shall the company take more than four rods in width, except by the voluntary sale of the same to the company.

Outer limits of the road not to exceed four rods.

32 B. 618. Ante, p. 551.

§ 2. Any company formed under the said act, may take half the rates of tolls, and no more, provided for in said act, from persons living within one mile of the gate at which it is taken, except persons residing in a city or incorporated village who shall pay full toll; but no toll shall be taken from farmers going to and from their work on their farms on which they reside or from persons driving or leading animals to or from the pasture or field where they are usually kept.

Half rates of toll.

As amended by Laws of 1855, ch. 546.

CHAP. 250.

AN ACT in relation to plank roads and turnpike roads.

PASSED April 6, 1849.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The directors of any plank road company formed under the act passed May 7, 1847, entitled "An act to provide for the incorporation of companies to construct plank roads, and for companies to construct turnpike roads," may with the written consent of the persons owning two-thirds of the stock, and with the written consent of a majority of the inspectors whose appointment is provided for in the 23d section of said act, construct branches to their main line of road, or extend their main line, or change the route of their road or any part thereof, which branches or extensions shall in all respects be

Main line when to be extended and route changed.

PART I.

governed by the same rules and affected by the same laws as the main line of road, and the said directors may increase the capital stock of the company to an amount not exceeding two thousand dollars a mile of such branches or extensions for their construction, and distribute the certificates therefor among the stockholders of the company in proportion to the stock owned by them severally, if such stockholders shall demand and pay up the same; and in case the new stock after the directors have given public notice in some newspapers printed in every county in which their road is situated for six successive weeks, is not demanded and paid by the stockholders, they may permit any person or persons to subscribe and pay on the new stock the same per centage that had been paid on the original stock of the company, and the same shall in all respects be held and considered as though it had formed a part of the original stock of the company. The right of way for any such branches or extensions shall be acquired by the company in the same manner as is now provided by law for plank road companies to acquire the right of way for their roads.

21 N. Y., 17; 18 B., 314.

Right of
way.

Exemptions
from pay-
ing toll.

§ 2. The following persons and no others shall be exempt from the payment of tolls at the gates of the several plank road companies formed under the before mentioned act:

1. Persons going to or from any court to which they have been summoned as jurors, or to which they have been subpoenaed as witnesses.

2. Persons going to or from any training at which they are by law required to attend.

3. Persons going to or from religious meetings.

4. All persons going to or from any funeral, and all funeral processions.

5. Persons living within one mile of any gate shall be permitted to pass the same at one-half the usual rates of toll, excepting farmers going to or returning from their work on their farms, who shall go free, when not employed in the transportation of persons or of the property of other persons.

6. Troops in the actual service of this state or of the United States.

7. Persons going to any town meeting or election at which they are entitled to vote for the purpose of voting and returning therefrom.

8. All persons going to or returning from any grist mill or blacksmith's shop where they ordinarily get their grinding or blacksmith's work done, shall be exempt from the payment of toll at one gate only within five miles of such person's residence when he is going to and returning from such mill or shop for the express purpose of getting grinding or blacksmith's work done, but this exemption shall apply only to

such parts of a plank road as have been or shall be made on a public traveled highway not theretofore a turnpike.

[This subdivision added by Laws of 1850, ch. 71.]

12 B., 648; 7 B., 630; 39 B., 633.

§ 3. Any person falsely representing him or herself to any toll gatherer as being entitled to any of the exemptions mentioned in the preceding section of this act, shall forfeit to the company to be recovered in the corporate name of the company, in any justices' court the sum of ten dollars. Penalty.

22 B., 669; 16 B., 15.

§ 4. Whenever any plank road company formed under the before mentioned act, shall have finished their road, or any three consecutive miles thereof, and had the same inspected as provided in the before mentioned act, it shall be lawful to erect a toll gate thereon and exact tolls thereat, for a term not exceeding one year, unless such road or five consecutive miles thereof be completed within such year. Toll gates when erected.

§ 5. Sections fifty-four and fifty-five of part first, title first, chapter eighteen of the Revised Statutes shall apply to all companies formed under the before mentioned act, passed May 7, 1847, so far as the same can be applied and are not inconsistent with this act. Secs. of R. S. to apply.

So amended by Laws of 1850, ch. 71; 22 B., 667; 32 N. Y., 662.

§ 6. So much of section thirty-five of the aforesaid act, passed May 7, 1847, as provides that "in no case shall any plank road company charge or receive rates of toll which will enable said company to divide more, nor shall any company divide more than ten per cent per annum on their capital stock actually paid in and invested in their road, after keeping the road in repair, and appropriating not exceeding ten per cent per annum on their capital stock invested as aforesaid, as a fund for the re-construction of their road when necessary," is hereby repealed. Repeal.

Ante, p. 559.

§ 7. The inspectors, or a majority of them, whose appointment is provided for by the thirty-third section of the said act passed May 7, 1847, are hereby authorized to determine the distance that the outer limits shall be apart, of any plank road or any turnpike road, belonging to any company formed under said act in case the same has not been determined by the commissioners appointed under the eighth section of said act: provided, that in no case shall the company take more than four rods in width, except by the voluntary sale of the same to the company. Width of road to be determined.

27 B., 456.

§ 8. It shall be lawful for any two or more companies, formed under the provisions of the aforesaid act of 1847, to consolidate the respective companies, on such terms as the persons owning two-thirds of the stock of each of said companies may agree upon; and such company, consolidated as aforesaid, may change the name of their road, on filing in the office of the secretary of state a certificate, containing the Two or more companies may consolidate.

PART I.

Penalty for running toll gate.

names of the roads so consolidated, and the name by which such road shall thereafter be known.

§ 9. Any person who shall pass any plank road gate, or turnpike gate, without paying the toll, and with the intent to avoid the payment of the same, by which a penalty accrues, or any person committing any depredation or trespass on any plank road or turnpike, may be sued for said penalty or trespass in the county where such offence or trespass was committed, or in the county where such person may reside.

Fees of inspectors.

§ 10. Whenever a complaint shall be made to the inspector or inspectors of any plank road or turnpike in this state, before such inspector or inspectors shall act upon such complaint, he or they shall receive from the complainant the fees provided by law; and in case it shall appear, upon examination of the road, that the complaint was well founded, the amount of said fees shall be paid to the complainant by the company. In case it is determined that the complaint was not well founded, the complainant shall not be entitled to receive back the fees so paid by him.

Highway labor in certain cases.

§ 11. Whenever any plank road or turnpike road shall be built in pursuance of the provisions of this act, or the act hereby amended, upon the site of an old highway, it shall be the duty of the commissioners of the highways of the town where such road shall be made, to designate some district or districts within their town, on which the highway labor of the inhabitants residing along the line of said plank or turnpike road shall be performed.

Grading or gravelling road by anticipation.

§ 12. It shall be lawful for the inhabitants residing in any road district in this state, to grade, gravel or plank the road or roads in such district, by anticipating the highway labor of such road district for one or more years, and applying it to the immediate construction of such plank or gravel road, and after the completion of such plank or gravel road, the said inhabitants shall be exempted from the labor so anticipated and applied, except so far as their labor may be necessary to keep their said road or roads in repair; such road to be in all cases free road.

Amendment.

§ 13. Section first of chapter 210, of the laws of 1847, is amended by striking out in the tenth and eleventh lines, the words, "and five per cent paid thereon as hereinafter required."

Ante, p. 550.

CHAP. 71.

AN ACT to amend the act for the incorporation of companies to construct plank roads and turnpike roads.

PASSED March 16, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Companies formed declared valid.

§ 1. Every company heretofore formed or organized under the act entitled "An act for the incorporation of companies

to construct plank roads, and of companies to construct turnpike roads," passed May 7, 1847, and the several acts amending the same, shall be deemed to be a valid corporation, although such company may not have complied with the requirements of such acts in the formation and organization of such company; and no act or omission on the part of any such company, or of its stockholders or officers, shall work a forfeiture of its corporate powers or franchises, unless the same was wilful or malicious; but this section shall not affect or impair any right of action which has heretofore accrued to any person or persons against such company, its officers or agents, for entering upon or taking possession of any real estate; or any right of action now existing, arising on contract; or any right of action against any company or its officers, for a misapplication of its funds; or any action pending to recover toll, or to recover any penalty for passing a gate without paying toll.

Proviso.

27 B., 511; 21 B., 213.

[Sec. 2 amends sec. 5 of chap. 250 of 1849.]

§ 3. No action to recover any penalty against any company formed under an act entitled "An act for the incorporation of companies to construct plank roads and of companies to construct turnpike roads," and the acts amending the same, or against any turnpike corporation, shall be commenced or maintained against such company, or any of its officers or agents, unless the same is commenced within thirty days after the penalty was incurred.

Actions for penalties.

[Sec. 4 amends sec. 2 of chap. 250 of 1849.]

§ 5. No supervisor or commissioner of highways of any town shall make any agreement with any plank road company, or turnpike road company, under the first section of "An act in relation to plank road and turnpike road companies," passed November 24, 1847, for the right to take and use any part of any public highway for a plank road or a turnpike road; without they first obtain the consent in writing of at least two-thirds of all the owners of land along such highway, who shall actually reside on that part of the highway on which such plank road or turnpike road is to be constructed.

Highways may be taken.

§ 6. No plank road turnpike road company shall hereafter erect or put up any hoist gate on their roads.

Hoist gates.

CHAP. 107.

AN ACT in relation to plank roads and turnpike roads.

PASSED April 9, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The following persons, and no others, shall be exempt from the payment of tolls at the gates of the several plank

Who exempt from tolls.

PART I.

road companies formed under the act entitled "An act to provide for the incorporation of companies to construct plank roads, and for companies to construct turnpike roads," passed May seventh, one thousand eight hundred and forty-seven.

1. Persons going to or from religious meetings held at the place where such persons usually attend for religious worship, in the town where they reside or an adjoining town, or within eight miles of their residence.

2. Persons going to or from any funeral, and all funeral processions.

3. Troops in the actual service of this state, or of the United States, and persons going to or from a militia training, which by law they are required to attend.

4. Persons going to any town meeting or general election, at which they are entitled to vote, for the purpose of voting or returning therefrom.

5. Persons living within one mile of any gate by the most usually traveled road, shall be permitted to pass the same at one-half the usual rates of toll, when not engaged in the transportation of other persons or the property of other persons.

6. Farmers living on their farms, within one mile of any gate, by the most usually traveled road, shall be permitted to pass the same free of toll, when going to or from their work on said farms.

12 B., 650; 39 B., 631.

(states how
located.)

§ 2. It shall not, at any time hereafter, be lawful for any plank road company formed under the said act of May seventh, eighteen hundred and forty-seven, or for any turnpike company to erect or put up any toll gate, gate house or other building, within a less distance than ten rods from the front of any dwelling house, barn, or other out house, without the written consent of the owner thereof; and if any toll gate or other such building shall hereafter be located by any such company within said distance without such consent, the county judge of the county in which such building shall be so located, shall on application order the same to be removed.

Repeal.

§ 3. Any thing contained in the said act of May seventh, eighteen hundred and forty-seven, or in any subsequent act which is inconsistent with the provisions of this act, is hereby repealed.

Ante, p. 549.

CHAP. 487.

AN ACT to amend an act entitled "An act to provide for the incorporation of companies to construct plank roads and of companies to construct turnpike roads," passed May 7, 1847.

PASSED July 10, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever an appeal to the supreme court from an order of the county court made in the cases provided by section 37 of the act entitled "An act to provide for the incorporation of companies to construct plank roads, and of companies to construct turnpike roads," passed May 7, 1847, shall be brought pursuant to the provisions of said section, the supreme court on motion of either party on due notice, shall appoint three disinterested persons who are in no wise interested in such company or in the question of the location of the toll gate thereof, and are not residents of any town through or into which such road shall run or to and from which such road shall be a principal thoroughfare, referees to hear, try and determine the said appeal.

Supreme court to appoint referees on appeal.

10 N. Y., 354.

§ 2. Such referees shall proceed to view the premises and the location of the gate affected by the order appealed from and shall proceed to a hearing of the respective parties in the same manner as is provided by law and the rules and practice of the supreme court on references of civil actions, and shall report their decision to the said supreme court as referees are required to report, together with the evidence taken by them, and the grounds of such decision. And the report of such referees may be reviewed by the said court, and judgment given thereon, as justice and equity shall require, in view of the law and the facts so presented, and such judgment shall be final and conclusive.

Hearing.

15 B., 136.

§ 3. Such referees shall be entitled to the compensation now provided by law for referees in civil actions, to be paid in the first instance by the party in whose favor their report and decision shall be, and the said supreme court on motion shall award judgment therefor, together with such amount of costs and expenses as shall be deemed reasonable by the said court to the party succeeding on such appeal, which judgment shall be entered with the order and judgment of said court affirming or reversing the order of said county court appealed from, and thereupon the party succeeding may issue execution thereon, and collect and enforce the same as upon judgments in civil actions.

Judgment and costs.

[Section 4 temporary.]

CHAP. 372.

AN ACT to amend "An act to provide for the incorporation of Bridge Companies," passed April eleventh, one thousand eight hundred and forty-eight.

PASSED April 16, 1852.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whereas, doubts have arisen in regard to the construction of the sixth section of the "Act to provide for the incorporation of bridge companies," passed April eleventh, one thousand eight hundred and forty-eight, which requires that corporations desiring to erect bridges under the act aforesaid, shall give notice of their intention to apply to the supervisors for authority to erect such bridge, and several incorporations have given such notice before being actually incorporated as required in the first and third sections of said act, but were so incorporated when the applications were presented to such boards:

Proceedings of supervisors valid.

Be it enacted: that the proceedings of such boards of supervisors in granting such authority, shall be considered as valid and effectual as if such notice had been given after such incorporation had been duly formed as aforesaid; provided, such associations were duly incorporated in all respects, at the time their applications were made to the boards of supervisors aforesaid.

Ante, p. 569.

CHAP. 245.

AN ACT in relation to plank roads.

PASSED April 15, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Rates of toll.

§ 1. Instead of the toll authorized to be demanded and received on plank roads, by section thirty-five of the act entitled "An act to provide for the incorporation of companies to construct plank roads, and of companies to construct turnpike roads," passed May 7, 1847, the following rates of tolls may hereafter be demanded and received: for every vehicle drawn by one animal, one cent per mile, and one cent per mile for each additional animal; for every vehicle used chiefly for carrying passengers, drawn by two animals, three cents per mile, and one cent per mile for each additional animal; for every horse rode, led or driven, three-quarters of a cent per mile; for every score of sheep or swine, one and a

half cents per mile; and for every score of neat cattle, two cents per mile.

21 B., 323.

§ 2. Sections twelve and thirteen of title four, chapter thirteen, part one, of the Revised Statutes, shall apply to plank-road companies.

[Sections 12 and 13 were repealed by Laws of 1853, ch. 654.]

CHAP. 626.

AN ACT to amend an act to provide for the incorporation of companies to construct plank roads, and of companies to construct turnpike roads, passed May 7, 1847, and the acts amendatory thereof.

PASSED July 21, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Every person liable to do highway labor, living or owning property on the line of any plank road of this state, may, on making application in writing to the commissioner or commissioners of their respective towns, on or any day previous to the time of making the highway warrants by such commissioners, be assessed the apportionment of highway labor, for such property upon such plank road, and the commissioner or commissioners shall assess such person for the land or property owned by him in or upon the line of said plank road as a separate road district.

Highway labor, how assessed.

Thus amended by Laws of 1856, ch. 495.

§ 2. It shall be the duty of the highway commissioner or commissioners of such town to make a separate list of such persons and such land or property so assessed, as commissioners are now by law required to make for every separate road district, which shall be delivered to some one of the directors of such road, who shall proceed to have said highway labor worked on such road, in the same manner that overseers of highways are required by law to do.

Duty of highway commissioners.

§ 3. The said directors shall possess all the powers and have the same authority to compel the performance of such highway labor, or the payment of such highway tax as the overseers of highways now have by law, and shall make like return to the commissioners of highways.

Powers of directors.

§ 4. Any person so assessed may commute for the tax, assessed upon him or his property, by paying the sum now fixed by law to any of said directors.

May commute.

CHAP. 87.

AN ACT in relation to plank roads and turnpike roads

PASSED March 28, 1854.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*Road may
be surren-
dered.

§ 1. The directors of any plank road company or turnpike company, formed under the act passed May 7, 1847, entitled "An act to provide for the incorporation of companies to construct plank roads, and for companies to construct turnpike roads," and every plank road company or turnpike company incorporated under or by any law of this state, are hereby authorized to abandon the whole or any part of their plank road or turnpike road, at either or both ends thereof, whenever the stockholders holding two-thirds of the stock in said road company shall consent to the same by a written declaration of the surrender of such part or parts of said road, which said declaration shall be attested by their common seal, and acknowledged by the president and secretary of said company before an officer empowered to take the acknowledgments of deeds. Such declaration and consent shall be filed and recorded in the clerk's office of the county in which the part or parts of said road abandoned shall be situated, and thereupon the plank or turnpike road, or the portion thereof so surrendered, shall cease to be the road or property of the company, and revert and belong to the several towns through which it was constructed, and the said company shall be no longer bound to maintain it or be liable to be assessed thereon, or be permitted to collect tolls for traveling over the same, from the time of recording said declaration of surrender and consent, without impairing the right of said company to take toll on the remaining part of their plank road or turnpike road at the rate prescribed in its charter, or by the laws of this state relating to any such company.

27 B., 457; 32 N. Y., 663.

Road may
be relaid
with gravel,
&c.

§ 2. Any plank road or turnpike company within this state, which shall have once laid the road with plank, may hereafter relay the same, or any part thereof, with broken stone, gravel, shells or other hard materials, whereby they keep a good and substantial road; such company shall be entitled to collect and receive the same tolls as is provided by chapter 245 of the laws of 1853.

Thus amended by Laws of 1855, ch. 546.

Gates.

§ 3. Section thirty-five and thirty-six of the before mentioned act, passed May 7, 1847, is hereby amended by striking out, after the word "roads" in the third line of said section, "but not within three miles of each other."

Ante, p. 559.

Exemption
from taxes.

§ 4. Toll-houses and other fixtures and all property belonging to any plank or turnpike road company, shall be exempt

from assessment or taxation for any purpose whatever, until the surplus annual receipts of tolls on their respective roads over necessary repairs and a suitable reserve fund for repairs and relaying of plank shall exceed seven per cent per annum on the first cost of such road. In case of any disagreement between the assessors of any town, village, or city, and any such company concerning such exemption claimed, said company may appeal to the county judge of the county in which such assessment is proposed to be made, who shall after due notice to the appealing party of such appeal, examine the books and vouchers of such company, and take such further proof as he shall deem proper, and shall decide whether such company is liable to taxation under this section, and his decision shall be final.

Thus amended by Laws of 1855, ch. 546.

§ 5. The directors of any plank road company may put up and maintain, at conspicuous places at each end of any bridge on their road, the length of whose span is not less than twenty-five feet, a notice with the following words in large characters: "One dollar fine for riding or driving over this bridge faster than a walk." Bridges.

Whoever shall ride or drive faster than a walk over any bridge upon which such notice shall have been placed and shall then be, shall forfeit for every offence the sum of one dollar.

§ 6. Every company formed or organized under the act entitled "An act for the incorporation of companies to construct plank roads, and of companies to construct turnpike roads," passed May 7, 1847, and the several acts amending the same, shall be deemed to be a valid corporation, although such company may not have complied with the requirement of such acts in the formation and organization of such company, and preparatory to the construction of its road, and no act or omission on the part of any such company or of its stockholders or officers, shall work a forfeiture of its corporate powers or franchises, unless the same was wilful and malicious; but this section shall not affect or impair any right of action heretofore accrued. Want of legal organization not to work forfeiture.

[Section 7 repealed by Laws of 1855, ch. 104; 32 N. Y., 652.]

CHAP. 120.

AN ACT to amend the act passed in 1848, entitled "An act to provide for the incorporation of bridge companies."

PASSED April 1, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Every person who shall wilfully break, throw down, or injure any gate erected on any bridge erected or constructed Injuring or running gates.

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under and by virtue of the act passed April eleventh, eighteen hundred and forty-eight, entitled "An act to provide for the incorporation of bridge companies," or forcibly or fraudulently pass any such gate thereon, without having first paid the legal toll for crossing said bridge, shall for each offence forfeit to the corporation injured the sum of twenty-five dollars, in addition to the damages resulting from such wrongful act.

CHAP. 390.

AN ACT to facilitate the collection of debts against the stockholders of companies organised under the laws, for the purposes of constructing plank roads, and of companies to construct turnpike roads, and to prevent litigation.

PASSED April 12, 1855 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Suits
against
stock-
holders.

§ 1. Whenever any judgment shall have been recovered by any person in any court of record in this state, against any corporation, organized or incorporated, under and by virtue of the act entitled "An act to provide for the incorporation of companies to construct plank roads, and of companies to construct turnpike roads," passed May seventh, one thousand eight hundred and forty-seven, on a demand arising upon contract, and for the payment of which the stockholders of such company are liable, in their individual capacity, as mentioned and declared in the said act, and an execution on such judgment shall have been duly issued to the proper county against the property of such corporation, and been returned unsatisfied in whole or in part; then any such creditor or creditors, his or their personal representatives may commence an action, in the mode now provided by law, in the supreme court, in the county in which the office of such corporation is held, or in which the stockholders reside, on behalf of himself or themselves, and of all other creditors of such corporation, who shall come in, and seek relief by, and contribute to the expense thereof, against all the stockholders, and any former stockholders, for the purpose of enforcing against such stockholders their respective individual liabilities under said law, to pay the debts of such corporation whether due at the commencement of such action, or to become due thereafter, if contracted or incurred previously, and any other person or party who may have an interest in the event or determination of such action may be made parties defendants, at the commencement or in any subsequent stage of the action.

Judgment
and execu-
tion how
enforced.

§ 2. The court in which such action may be pending, shall proceed therein as in similar cases, and shall have jurisdiction and authority to enforce the payment of all arrears due from

and owing by any stockholder on the stock subscribed for and owned by him, and shall also ascertain all the debts of such corporation which the stockholders thereof are individually liable to pay, and shall assess and apportion the total amount of such indebtedness for which the stockholders are by law liable to pay, including the reasonable costs and disbursements of the plaintiff in such action, on and among the respective stockholders or persons liable to pay the same, according to their individual liability, and shall enforce the payment thereof by each stockholder by its judgment, and by execution or executions in the name of the plaintiffs in such action, or in the name of the receiver in the action, if one shall have been appointed, against the respective stockholders, as in other cases.

§ 3. Every stockholder of such corporation, who at any time before the commencement of such action, shall have due or owing to him, any demand or claim arising on contract against such corporation, or who may have paid any debt or demand against such corporation, either voluntary or by compulsion, and for which the stockholders of such corporation are or would be personally liable under the provisions of the said act of May seven, one thousand eight hundred and forty-seven, shall be deemed a creditor and shall be entitled to appear in said action, and to prove his claim and demand, and to have judgment therefor, or a credit for the amount upon his individual liability as a stockholder, to pay the debt of such corporation, to be ascertained and adjudged in said action; and shall receive payment thereof in the mode or manner that may be directed or ordered by the court, in the judgment in such action.

Stockholders when to be deemed creditors.

§ 4. Whenever any such action shall have been commenced against the stockholders of any corporation as provided in the first section of this act, the court shall possess all the powers and authority in relation to such action, and the proceedings therein, and the parties thereto as was exercised by the late court of chancery in this state, in proceedings against corporations in equity, under and by virtue of article second, of title four, chapter eight, part third of the revised statutes, so far as the same may be consistent with this act, and any creditor of such corporation who shall not on being duly required by the court, and in such manner as the court shall direct, exhibit his claim and become party to such suit, within a reasonable time not less than six months from the first publication of such notice by order of the court, shall be precluded from all benefit of the judgment which shall be rendered in such suit, and from any distribution of moneys which may be made under such judgment among the creditors of the said corporation.

Power of courts.

§ 5. The court shall cause the moneys so assessed upon and collected from the stockholders of such corporation for the purposes contemplated by this act, by virtue of the judgment in such action after paying the costs and disburse-

Distribution of money recovered.

PART I.

ments of such action, to be applied to the payment and extinguishment of the debts against such corporation which shall be established and proved in said action to be debts which by law the stockholders of such company are liable individually to pay without preference, except where such preference exists by law; and in case any debt so established shall not be due, and the person to whom it belongs or is payable declines to receive the same, in such case the court may make such order as to the deposit or investment of such moneys so due to any such creditor, or for his use or benefit, and for the payment thereof when due as shall be just and equitable.

CHAP. 485.

AN ACT in relation to turnpikes and plank roads, and to prevent encroachments thereon.

PASSED April 14, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Hauling
logs and
timbers.

§ 1. Any person who shall draw or haul, or cause to be hauled or drawn, any logs, timber, or other material, upon the road bed of any plank road or turnpike road, unless the same be entirely elevated above the surface of the road on wheels or runners, by which said road bed shall be injured, or who shall do or cause to be done any act by which said road bed or any ditch, sluice, culvert or drain appertaining to any turnpike or plank road, shall be injured or obstructed, or shall divert or cause to be diverted any stream of water so as to injure or endanger any part of any such turnpike or plank road, shall forfeit and pay the sum of five dollars as a penalty, in addition to the damages resulting from such wrongful act.

Leaving
logs, &c.,
on road.

§ 2. Any person who shall designedly place or leave, or cause to be placed or left, any log, timber, wood, stone or other material, upon the land held by any turnpike or plank road company, for highway purposes, in such a way as to obstruct the travel upon such road, or to endanger property or persons passing upon such road, shall, in case he or she do not remove such obstruction within forty-eight hours after receiving a written notice from one of the directors of the company owning the road upon which such obstructions have been placed or left, forfeit the sum of ten dollars for every twenty-four hours such obstruction shall remain after such notice.

Running
the gate.

§ 3. Any person who shall pass any turnpike or plank road gate without paying the toll required by law, and with intent to avoid the payment thereof, shall for each offence, forfeit and pay to the corporation injured thereby, ten dollars. The penalties in this and the preceding election may be sued for

and recovered by any company injured thereby, in any court having jurisdiction thereof.

27 B., 215.

§ 4. Whenever the president or secretary of any turnpike or plank road company, shall notify any inspector of roads in the county where such roads are situated, that any person is erecting or has erected any fence or other structure, upon any part of the premises set apart by due course of law, for any turnpike or plank road, the said inspector shall proceed to examine the facts, and if it shall appear that such fence or other structure is upon any part of any such road, the said inspector shall order the same to be removed; and any person who shall neglect or refuse to remove the same within twenty days, or such further time not exceeding three months, as may be fixed by the said inspector, shall forfeit and pay the sum of five dollars for every day during which said fence or other structure shall remain on the said road, to be sued for and recovered by the corporation owning such turnpike or plank road, in any court having jurisdiction thereof; provided that the said inspector shall not order the removal of any fence previously erected, between the first day of December and first day of April.

Fences encroaching.

§ 5. All acts and parts of acts inconsistent with this act are hereby repealed.

CHAP. 546.

AN ACT in relation to plank roads and turnpike roads.

PASSED April 18, 1855; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In any action hereafter brought by or against any plank or turnpike road company organized under the laws of this state, which shall have been in actual operation, and being in the possession of a road upon which they have taken toll for five consecutive years next preceding the commencement of such action, parol proof of such corporate existence and use shall be sufficient for all purposes of the action, unless the opposing party shall set up a claim in his complaint or answer, duly verified, of title in himself to the road, or some part thereof, stating the nature of his title and right to the immediate possession and use thereof. 32 N. Y., 652.

Proof of incorporation.

§ 2. No plank road company shall be deemed to have forfeited any privilege or franchise by reason of not having completed their road the whole distance mentioned or described in their articles of association.

Forfeiture of franchise.

§ 3. Every instrument in writing, purporting to be an agreement between any plank road company and the supervisor or commissioners of highways of any town, in pursuance

Agreement with town officers.

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to section twenty-six of chapter two hundred and ten of the session laws of eighteen hundred and forty-seven, and heretofore filed or recorded in any town clerk's office, shall be deemed, and taken in all courts and places to be as valid and effectual an agreement as if the same had been made and executed at a regular meeting of such supervisor and commissioner or commissioners of highways. The provisions of this section shall not affect suits now commenced.

Section 4 amends ch. 360, Laws of 1848.

Section 5 amends ch. 87, Laws of 1854.

Omission
of oath
cured.

§ 6. No company organised under the act entitled "An act for the incorporation of companies to construct plank roads, and of companies to construct turnpike roads," passed May seventh, eighteen hundred and forty-seven, and the several acts amending the same, shall be deemed to have forfeited any of its corporate powers or franchises by reason of the omission of the inspectors of elections for directors in any such company to take the oath prescribed, prior to holding said election.

Section 7 amends ch. 87, Laws of 1854.

Annual re-
port.

§ 8. The treasurer of every plank road company and turnpike company shall at the end of each fiscal year of said company, make and prepare under oath, a statement of the affairs of said company, in which he shall state the amount received by said company during the year, and from what sources the same was received, stating the amount received from each source separately; and also the amount expended during the year, and on what account the expenditures were made, and the items of said expenditures, and shall also state the amount of liabilities of said company, and amount of indebtedness to said company. Which statement he shall exhibit at all reasonable hours to any stockholder in said company, on being requested to do so; and in case such treasurer shall refuse to exhibit such account or statement as aforesaid, to any stockholder on request as aforesaid, he shall forfeit and pay to the person making such request the sum of five dollars for each offence, to be recovered in any court having cognizance thereof.

CHAP. 202.

AN ACT in relation to Plank Roads and Turnpike Roads

PASSED March 31, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Stockhold-
ers may be
directors.

§ 1. Whenever the whole number of stockholders in any plank road company or turnpike road company, shall not exceed the number of directors specified in the articles of asso-

ciation of such company, each stockholder shall be in fact and in law a director of such company, and in such case the stockholders shall constitute the board of directors, whatever may be their number, and a majority thereof shall form a quorum for the transaction of business.

CHAP. 482.

AN ACT in relation to the sale of plank roads and turnpike roads on execution, and to provide for the incorporation of the purchasers at such sales into companies to own and operate such roads.

PASSED April 15, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever any plank road or turnpike road shall be sold upon any execution, and shall not be redeemed from such sale, according to law, then it shall and may be lawful for the purchaser or purchasers of such road, and they are hereby authorized to maintain and operate the same, in the same manner and subject to the same privileges and restrictions in all respects as the company owning such road at the time such sale was made.

Operating
roads by
purchasers.

§ 2. Such purchaser or purchasers, on associating with him or them not less than four persons, may be formed into a corporation for the purpose of owning such plank road or turnpike road, by complying with the following requirements:

They shall severally subscribe articles of association, in which shall be set forth the name of the company, the number of years the same is to continue, which shall not exceed the unexpired term of the original incorporation of the company whose road was so sold, whether it is a plank road or a turnpike road which the company is formed to own and operate; the amount of the capital stock of the company, which shall not exceed the amount of the capital stock of the company owning such road at the time of such sale; the number of shares of which the said stock shall consist; the number of directors, and their names, who shall manage the concerns of the company for the first year, and shall hold their offices until others are elected; the place from and to which said road is constructed, and each town, city and village into or through which said road shall pass, and its length as near as may be. Each subscriber to such articles of association shall subscribe thereto his name and place of residence, and the number of shares of stock owned by him in said company. The said articles of association may then be filed in the office of the secretary of state, and thereupon the persons who have so subscribed, and all persons who shall from time to time become stockholders in such company, shall be a body corpo-

Articles of
association
of purchas-
ers.

PART I.

rate, by the name specified in such articles, and shall possess the same powers and privileges and be subject to the same provisions as companies organised under the act entitled "An act to provide for the incorporation of companies to construct plank roads and of companies to construct turnpike roads," passed May seventh, one thousand eight hundred and forty-seven.

Extent of
this act.

§ 3. The provisions of this act shall apply to all such sales, the right of redemption upon which either has heretofore expired or shall expire after the passage of this act.

CHAP. 209.

AN ACT in relation to plank roads and turnpike roads.

PASSED April 9, 1859; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

May con-
struct
branches.

§ 1. The directors of any plank road company or turnpike road company, formed under the act passed May seventh, eighteen hundred and forty-seven, entitled "An act to provide for the incorporation of companies to construct plank roads, and for companies to construct turnpike roads," may, with the written consent of the persons owning two-thirds of the stock, construct branches to their main line of road, or extend or change the route of their road, or any part thereof, whereby the public interest will be promoted, through any uncultivated or unimproved lands.

May take
and hold
necessary
real estate.

§ 2. The directors of any such company may purchase, take and hold any real estate necessary for the aforesaid purposes, and by their agents, servants or other persons employed, may enter upon the lands of any person or persons, which may be necessary for said purpose, and may construct their road upon any lands so entered upon, purchased or held.

Lands to be
surveyed.

§ 3. Before entering, taking or using any land for the purpose of this act, the directors of any such company shall cause a survey and map to be made of the lands intended to be taken or entered upon, for any of said purposes, and by which the land of each owner and occupant intended to be taken and used shall be designated, and which map shall be signed by the surveyor or engineer making the same, and by the president of such company, and acknowledged by them, and be filed in the office of the clerk of the county. The directors of any such company, by any of its officers, agents or servants, may enter upon any lands for the purpose of making any examination, and of making survey and map, doing no unnecessary damage.

Commis-
sioners
when to be
appointed.

§ 4. In case the directors of any such company cannot agree with the said owners and occupants of any land intended to be taken and used for the purposes of this act, the directors

may apply to the judge of the county court for the appointment of three disinterested persons, not the owners of real estate in any town through which any land intended to be used for the purposes of this act, or in any town adjoining such town, as commissioners by whom the compensation to be paid for the damages suffered or to be suffered by any person or persons, by reason of taking any of said lands for the purposes of this act, shall be ascertained and determined, and in case of the death, resignation, refusal or disability to act of any of said commissioners, the said judge may appoint others in their place. The commissioners shall give at least ten days' written notice of the time and place to hear the parties interested, to be served personally on the parties interested, or in their absence from their dwellings or place of business, by leaving the same thereat, with some person of suitable age, and in case of any legal disability of such owner or owners to act thereupon, serving notice in like manner, upon his or her guardian, or person appointed to act for him or her, as hereinafter directed, and in case any of said owners shall be married women, insane, infants or idiots, the said judge shall appoint some suitable person to attend in their behalf, before the said commissioners, and take care of their interest in the premises. The commissioners may issue subpoenas to compel the attendance of witnesses to testify before them, and they, or any of them, may administer the usual oath to such witnesses. They shall determine the width of road through said lands, and make a report of all proceedings before them, containing the testimony taken by them, and make an actual survey and description thereof, as laid out by them, and the sum awarded to each owner or any other person, duly signed or acknowledged by them and return the same to said judge to be filed on record.

Commissioner to give notice.

§ 5. Each commissioner is entitled to receive two dollars per day for his fees, to be paid by the company.

Compensation.

§ 6. The directors of any plank or turnpike road company, or any party to the proceedings of the commissioners, may appeal from any award or determination of the commissioners, to the said county judge, providing the party appealing shall, within ten days after such award or determination shall be made, give written notice of the appeal to the other party or parties interested in the same; and the said judge shall examine the report of the commissioners, and if their proceedings in the case have been irregular, the said judge may set the same aside and order new proceedings and appointments; and the said judge may make such orders in reference to the proceedings of the commissioners, and of notices to be given by the parties as may not be inconsistent with this act, and as the nature of the case, and the interest of the parties may require. And the said commissioners shall again examine the case, and the decision then made shall be final.

Appeal from judgment of commissioners.

§ 7. Upon the payment or legal tender of the compensation

Upon payment of

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compensation, may
enter upon
land.

determined as before provided, the said directors of any plank road company, or any turnpike road company, shall be entitled to enter upon for the purposes contemplated by this act, all the lands and real estate for which such compensation shall be paid or tendered, as aforesaid, and to hold and use the same for the said purposes, to them and their successors forever. If any person to whom any compensation shall be awarded, or who shall be entitled to the same by virtue of said award, cannot be found, or shall refuse to receive the sum awarded to him or her, then the said payment may be made by depositing the amount of the said award to the credit of said person, in such bank as may be appointed by said judge. If the person to whom compensation is awarded, or who is entitled to receive the same as aforesaid, be under legal disability, as aforesaid, payment may be made to his guardian or person appointed as aforesaid, by said judge, and if said guardian or person appointed cannot be found, then by deposit in bank as aforesaid.

Directors to
take and
hold real
estate.

§ 8. The directors of any plank road company or turnpike road company, shall take and hold, for the purpose contemplated in this act, all the lands and real estate which they shall in any way legally enter upon and take by virtue hereof, to them and their successors so long as the same shall be used for a road.

Rights of
purchasers
of plank-
roads.

§ 9. Any person or persons who have heretofore or may hereafter purchase any plank road or any part thereof exceeding three miles under and by virtue of any mortgage executed by any plank road company incorporated under the general plank road law of this state, shall become the owner or owners of said road or part thereof thus purchased, and all the rights, privileges and franchises belonging to such plank road company at the time of such purchase, subject to the same restrictions as now exist by law.

Repeal.

§ 10. All acts and parts of acts, so far as they are inconsistent with this act, are hereby repealed.

CHAP. 248.

AN ACT in relation to plank roads and turnpike roads.

PASSED April 16, 1862 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Certain
plank roads
and turn-
pike com-
panies
deemed
duly incor-
porated.

§ 1. No plank road or turnpike road company, corporation or association heretofore formed or organized under the act entitled "An act for the incorporation of companies to construct plank roads and companies to construct turnpike roads," passed May seventh, eighteen hundred and forty-seven, and the several acts amending the same, shall be deemed invalid,

or to have forfeited any of its powers, rights or franchises by reason of any failure on the part of such company or the persons organizing the same, to have complied with the requirements of such acts in the formation or organization of such company, as to the number of stockholders or persons who signed the articles of association of such company or association, or in the publication of notices in the organization thereof, or by reason of any informality or defect in the signing such articles of association or in the publication of the notices aforesaid; and the stockholders, officers and creditors of every such company are hereby declared to have the same rights and the stockholders to be subject to the same obligations and liabilities as if such company had strictly complied with all the requirements of the law aforesaid, to create and perfect a complete body corporate; provided that this act shall only apply to such companies as shall have attempted an organization, and shall have actually constructed a road wholly or in part according to their articles of association.

Proviso.

§ 2. Nothing in this act contained shall affect any suit or proceeding now pending in any court of this state.

Pending suits or proceedings not affected.

CHAP. 107.

AN ACT declaring a part of the Black River a Public Highway, and for other purposes.

PASSED March 16, 1821.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That such part of the Black River in the counties of Lewis and Jefferson, as is contained between the high falls in Turin and the toll bridge over said river at the village of Carthage, (so called,) in the town of Wilna, be and it is hereby declared to be a public highway.

The part declared a highway.

§ 2. *And be it further enacted,* That if any person shall dam up, or obstruct the navigation of the waters aforesaid, between said high falls and bridge, by building or erecting any works, or by cutting or falling wood or timber in the Moose river, (the distance of two miles above the high falls,) or in said Black river, between said high falls and the toll bridge aforesaid, such person or persons so offending, shall forfeit for each offence the sum of ten dollars, to be recovered with costs of suit, in any court having cognizance thereof, by any person who will prosecute for the same to effect; the one moiety thereof to be paid to the commissioners of highways of the town in which such offence shall happen, to be by them laid out and expended in improving the roads, or erecting bridges in the said town, and the other moiety to be for the use of the person who shall so prosecute for the same: *Provided,*

Prohibition as to damming, &c.

Penalty.

PART I.
Proviso.

That nothing in this act shall go to prevent any person or persons from rafting any timber or lumber on said waters: *Provided, however,* That nothing contained in this act shall be construed to affect or destroy the private or vested rights of any individual, in or about said waters, or the lands adjacent.

For § 3 see Laws of 1853, ch. 115.

CHAP. 115.

AN ACT to amend an act entitled "An act declaring a part of the Black river a public highway and for other purposes," passed March sixteenth, eighteen hundred and twenty-one.

PASSED April 7th, 1858.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The third section of the act entitled "An act declaring a part of the Black river a public highway, and for other purposes, passed March sixteenth, eighteen hundred and twenty-one, is hereby amended so as to read as follows:

Fast driving over bridges prohibited.

From and after the passage of this act it shall not be lawful for any person to lead, ride or drive any horse, or horses, mule or mules, faster than a walk on or over any bridge which now is or shall hereafter be erected across the Black river, at any point between its mouth and the northeasterly corner of the town of Leyden, in the county of Lewis. Any person violating the provisions of this act shall be liable to a penalty, for each offence, of ten dollars, to be recovered in any court having cognizance thereof, in the name of the commissioners of highways of either of the towns which are bound to maintain any such bridge, and it shall be the duty of any such commissioners upon the complaint of any person in writing, stating that such offence has been committed, to immediately prosecute such offender, one half of said penalty when collected shall be applied by such commissioners to keep such bridge in repair. The other half shall be paid by said commissioners to the person making such complaint, or to the trustees of the school district in which the action shall be brought, to be applied by such trustees to school purposes, as shall be determined by the court in which said action is brought. *Provided, however,* that the said commissioners shall, at the expense of the said towns, put up and continue on each end of said bridge a printed notice of such penalty.

§ 2. The owner of any horse or horses, mule or mules, led or driven or ridden on or across or over any such bridge, by an agent or servant of the owner thereof, contrary to the provisions of this act, shall be liable to the penalty aforesaid.

CHAP. 49.

AN ACT declaring a part of Cayuta Creek a public highway.

PASSED February 20, 1827.

Be it enacted by the People of the State of New York represented in Senate and Assembly :

That from and after the passage of this act, all that part of Cayuta Creek, in the county of Tioga, from the state line to Swartwood's mills on said creek shall be and is hereby declared a public highway, *Provided always*, that this act shall not be so construed as to affect any mills or dams already erected on that portion of said creek which is hereby declared a public highway.

CHAP. 364.

AN ACT to amend an act entitled "An act declaring a part of the Cayuta Creek a public highway," passed February 20, 1827.

PASSED May 4, 1828.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be the duty of all persons having dams across that part of Cayuta creek as is declared a public highway, to cause a sluice way or lock to be made to such dam, at least twenty feet wide, so as to permit rafts and arks to pass conveniently down said creek. Size of sluice ways and locks.

§ 2. The commissioners of highways in the several towns through which that part of the Cayuta creek runs, are hereby authorized and required to district the said creek so declared a public highway, and to assess the inhabitants living on and adjacent to the turnpike road running parallel to said creek, and to require said assessment to be worked in clearing away the obstructions to the navigation of said creek. River to be districted.

CHAP. 273.

AN ACT declaring the River Saranac a public highway.

PASSED May 13, 1846.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. The Saranac River, including the two main branches thereof and lakes connected therewith is hereby declared a River branches and lakes a highway.

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Dams
chutes and
aprons.

public highway to the lower dam in the village of Plattsburgh, for the floating of timber, logs and lumber and other proper public uses: Provided, however, that nothing in this act contained shall be so construed as to prevent the erection of any dam across said river for the purpose of raising water to carry any mill or machinery, nor the putting up of any boom across said river or branches for securing timber and saw logs or for any other proper or necessary purpose, nor be so construed as to extend to or affect any dam or boom across or mill upon said river now erected or hereafter to be erected as aforesaid, otherwise than is provided in this act or may be otherwise provided by law; and, provided further, that nothing in this act contained shall be so construed as to impair or abridge any private or individual rights, and any mill dam hereafter to be erected in said river shall be constructed with a chute or apron sufficient for the purposes above mentioned.

[Sections 2 and 3 repealed by Laws of 1853, ch. 221.] Post, p. 601.

Penalty.

§ 4. If any person shall obstruct or dam up the navigation of the said river otherwise than is herein provided, he shall forfeit the sum of twenty-five dollars to be recovered by any person who shall sue for the same with the costs of suit, and shall also be liable for all damages sustained by any person or persons in consequence of such obstruction.

CHAP. 264.

AN ACT declaring Racket river in the state of New York a public highway, and regulating the passage of lumber down the same, and regulating the sale of public lands in the vicinity thereof.

PASSED April 10, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Racket
river de-
clared a
public high-
way.

§ 1. The Racket river is hereby declared a public highway for the purpose of floating logs and lumber from its mouth in the town of Massena, to the foot of Racket lake in the county of Hamilton.

Dams how
to be con-
structed.

§ 2. On that part of said river, hereby declared a public highway, no dam shall hereafter be erected without an apron, at least thirty feet in width, in the middle of the current of the river, of a proper slope, for the passage of logs and timber.

Booms how
construct-
ed.

§ 3. All booms made on said river above any dam shall have an open passage or water way of at least thirty feet in width; and the said passage may be closed except when necessary to be opened for the passage of logs.

Penalty for
obstructing

§ 4. Any person wilfully obstructing by booms or otherwise the channel of said river, so that said space of thirty feet in

width shall not be open for use, shall be liable to a penalty of twenty-five dollars for each day of the continuance of said obstruction, to be sued for and collected by every person aggrieved by such obstruction.

§ 5. Persons desirous of floating logs or lumber down the said stream may construct a shoal or apron in connexion with any dam across said stream, and may reconstruct any booms already constructed in, over and across said stream, in such manner as to allow logs and lumber to pass by the same doing no unnecessary injury to the owner or occupants of said boom, and paying to such owner or occupant such damages as he or they may sustain by reason of the alteration of said dam and boom; nor shall this act be construed to impair or abridge any private or individual rights, except so far as is necessary for the improvement of said river and floating logs and lumber down the same.

Aprons and booms may be constructed to aid in floating logs.

See Laws of 1851, ch. 303. Post, p. 598.

§ 6. The lands on and adjoining said river belonging to the state shall not be sold at a price less than thirty-three cents per acre. 35 N. Y., 457.

Price of state lands adjoining.

CHAP. 207.

AN ACT declaring Moose river, together with the north and south branches thereof, in the state of New York, a public highway, and regulating the passage of logs and timber down the same.

PASSED April 17, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The Moose river, from the head of Eighth lake (so called) to its mouth, also the south branch of the same from the west line of Hamilton county to its junction with the main river, also the north branch from the east line of Herkimer county, to its junction with the main river, are hereby declared a public highway for the purpose of floating logs and timber.

Public highway.

§ 2. All booms made on said rivers above any dam or elsewhere shall be so constructed as to admit of an open passage or water-way, of at least thirty feet in width, convenient for the passage of logs and timber, and the said passage may be opened for the passage of logs and timber at any time, without however endangering or impairing thereby the rights and property of the owners and occupants of said booms, or releasing of any logs or timber intended to be confined therein.

Booms how constructed.

§ 3. Any person wilfully obstructing the booms or otherwise, the channel of said river, so that said space of thirty feet in width may not be open for use, as provided in the pre-

Penalty for obstructing channel.

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ceding section, shall be liable to a penalty of twenty-five dollars for each day of the continuance of said obstruction, to be sued for and collected by every person aggrieved by said obstructions.

Chutes or
aprons may
be con-
structed.

§ 4. Persons desirous of floating logs or timber down the said stream may construct a chute or apron in connection with any dam across said stream, and may reconstruct any booms already constructed, or hereafter to be constructed, in, over and across said stream, in such manner as to allow logs and timber to pass by the same, doing no unnecessary damage to the owner or occupants of said boom, and paying to such occupant or owner such damages as he or they may sustain by reason of the alteration of said dam or booms, to be ascertained by three commissioners, to be appointed by the county judge of Lewis county, on the application of either party, and notice of ten days to the other party, unless the parties can agree; nor shall this act be construed to impair or abridge any private or individual rights in the construction of bridges, dams or booms across said river, except so far as is necessary for the improvement of said river, and floating logs and timber down the same.

CHAP. 303.

AN ACT to amend an act entitled "An act declaring Racket river a public highway, and regulating the passage of lumber down the same, and regulating the sale of public lands in the vicinity thereof."

PASSED June 28, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Construc-
tion of
booms.

§ 1. The fifth section of the act entitled, "An act declaring Racket river, in the State of New York, a public highway, and regulating the passage of lumber down the same, and regulating the sale of public lands in the vicinity thereof," passed April 10th, 1850, shall be amended so as to read as follows: Persons desirous of floating logs or lumber down the said stream may construct a shoal or apron in connection with any dam across said stream, and may reconstruct any booms already constructed in, over and across said stream in such manner as to allow logs and lumber to pass by the same, doing no unnecessary injury to the owner or occupants of said booms, and paying to such owner or occupants such damages as he or they may sustain by reason of the alteration of said dam or boom; to be appraised by three commissioners to be appointed by the county court of St. Lawrence county, on the application of any person interested in the appraisal of such damage, on ten days' notice in writing to

the opposite party or parties, of the time and place of making such application; and in appraising the damages to the owner or owners of any such booms or dams, the commissioners shall take into account the benefits accruing to such owner or owners from the expenditure of the appropriation from the state for the improvement of Racket river; nor shall this act be construed to impair or abridge any private or individual rights except so far as is necessary for the improvement of said river and floating logs and lumber down the same.

§ 2. Every person who shall put any logs or timber into the waters of Racket river or its branches, for rafting or floating down said river or its branches, shall select some mark different from any mark previously recorded, and put the same in a conspicuous place upon each log or stick of timber so put into said river or its branches, and shall cause his mark to be recorded in the town clerk's office of the town of Potsdam, whose duty it shall be to enter the same in a book to be kept by him for that purpose which shall be subject to the inspection of any person requiring it.

Logs and timber how to be marked.

§ 3. Every person who shall neglect to enter his mark as required in the foregoing section, shall be debarred from all benefits arising from the due entry of such mark, and the assignee or vender of any such logs or timber shall be subject to the same regulation and restrictions.

Penalty for not marking.

§ 4. The clerk of the town of Potsdam shall be entitled to a compensation of twenty-four cents for entering every such mark to be paid by the person requiring the same to be entered, and a copy of such entry certified by the clerk shall be received as presumptive evidence in all courts of this state, that the lumber having such mark is the property of the person by whom such mark was selected and recorded.

Entry of mark and fee.

§ 5. No persons not authorized as hereinafter directed, shall stop, take up, or draw to, or lodge on the shore of Racket river, or any island therein south of Atwater's mills, on either shore of said river, any logs, timber, boards or plank floating in said river without the consent of the owner thereof, and every person offending in the premises shall, for any such offence, forfeit the sum of ten dollars, to be recovered by the overseers of the poor of the village or town where the offence was committed, for the use of the poor thereof.

Penalty for stopping timber.

§ 6. Any person making claims for damages arising under this act, shall apply for the same within one year from the accruing of the same, or be barred from recovering the same.

Claims, when to be applied for.

CHAP. 113.

AN ACT declaring the Indian River a public highway.

PASSED April 5, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Indian River a public highway.

§ 1. The Indian River, in the towns of Antwerp, Philadelphia, Le Ray and Theresa, is hereby declared a public highway in Jefferson county, for the purpose of floating saw logs, provided nothing herein contained shall be so construed as to prevent the erection of any dams across said stream for the purpose of raising water to carry any mill or machinery, nor the putting of any boom across said stream for securing saw logs, or for any other purpose proper or necessary, nor be so construed as to extend to or affect any dam or boom across, or mill upon said stream, now erected or hereafter to be erected as aforesaid, otherwise than as is provided by law; and provided further that nothing in this act contained shall be so construed as to impair or abridge any private or individual rights, or any mill-dams hereafter to be erected on said stream shall be constructed with a chute or apron, sufficient for the purposes above mentioned.

Proviso.

Alterations may be made in dams.

§ 2. Any person or persons interested in the improvement of the navigation of said stream, or desirous to float logs therein, may at his or their expense alter any dam now erected or hereafter to be erected on said stream by making a chute, slope or apron thereto, so that saw logs may conveniently and safely run and be conducted over the same, and may at his or their own expense also alter and reconstruct such portion of the booms above mentioned and provided for, so far as shall be necessary to admit the convenient passage of logs, without however endangering or impairing thereby the rights and property of the owners and occupants of said booms; and the person or persons so constructing such chutes or apron shall pay to the owner of such mill all damages which may occur or arise in consequence of such construction, or the loss of time or water by means thereof.

Notice requiring slope or aprons to be made.

§ 3. The owner or occupant of any dam now erected, or hereafter to be erected upon said stream, may by notice in writing require any person or persons, before floating any logs over said dams, to make the slope or apron above mentioned; and in case of omitting so to do, after notice so given, the person or persons so floating saw logs on such dams shall be liable to pay all damages occasioned thereby, with costs of suit to the person or persons entitled to the dam.

Obstructing navigation.

§ 4. If any person shall obstruct or dam up the navigation of said stream, otherwise than as is herein provided, he shall forfeit the sum of twenty-five dollars, to be recovered by any

person who shall sue for the same, with costs of suit, and shall also be liable for all damages sustained by any person or persons in consequence of such obstruction.

CHAP. 221.

AN ACT to amend an act entitled "An act declaring the river Saranac a public highway," passed May 13, 1846.

PASSED April 13, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Section two and section three of "An act declaring the river Saranac a public highway," passed May 13, 1846, are hereby repealed. Repeal.

§ 2. All the provisions of the aforesaid act declaring the river Saranac a public highway, as amended by this act, are hereby made applicable to the Summer brook, a tributary of the river Saranac. Act applicable to Summer brook. Anta, p. 595.

§ 3. Any person or persons who shall hereafter erect any boom or booms, or works other than dams, in or across the waters referred to in section one of the aforesaid act declaring the river Saranac a public highway, as herein amended, for the purpose of stopping or securing lumber, sawlogs or other timber, or for any other proper or necessary purpose, shall, within seven days after he or they shall have received proper notice by any person or persons who shall have lumber, sawlogs or other timber to transport on the said waters, open the said booms or other works to the width of twenty feet, and keep them so open a reasonable time to allow such lumber, sawlogs or other timber to pass through and down said waters, and for a failure of so doing shall be liable to the penalty prescribed in section four of the aforesaid act declaring the river Saranac a public highway. Booms to be kept open.

§ 4. Persons desirous of floating lumber, sawlogs or other timber in or down the waters referred to in section one of the aforesaid act declaring the river Saranac a public highway, as herein amended, may reconstruct any booms, already constructed in, over or across said waters, in such manner as to allow lumber, sawlogs or other timber to pass by or through the same, doing no unnecessary injury to the owner or occupant of said booms, and paying to such owner or occupant such damages as he or they may sustain by reason of the alteration of said booms; to be appraised by three commissioners to be appointed by the county court of the county in which such booms are located, on the application of any person interested in the appraisal of such damages, on ten days' notice in writing to the opposite party or parties of the time and place of making such application; and in appraising Booms may be reconstructed.

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Claim for
damages.

the damages to the owner or owners of any such boom, the said commissioners shall take into account the benefits accruing to such owner or owners from the expenditure of the appropriation from the state for the improvement of the Saranac river; such boom, which shall be so reconstructed as aforesaid, and the owners and occupants thereof, shall thereafter be subject to the provisions of section three of this act.

§ 5. Any person making claims for damages, arising under this act, shall apply for the same within three years from the accruing of the same, or be barred from recovering the same.

CHAP. 452.

AN ACT declaring Black river a public highway, and regulating the passage of logs and lumber down the same, from the Moose river tract to the junction with Moose river, and for the improvement of said river.

PASSED June 24, 1853; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Public
highway.

§ 1. The Black river, from the junction with Moose river, to the Moose river tract, in Herkimer county, is hereby declared a public highway for the purpose of floating logs and lumber down the same.

Dams.

§ 2. On that part of said river hereby declared a public highway, no dam shall be hereafter erected without an apron or shute, at least twenty feet in width, in the current of the river, of a proper slope for the passage of logs and lumber.

Booms.

§ 3. All booms hereafter made on that part of said river mentioned in the first section of this act, shall have an opening or passage-way of at least twenty feet in width, and such passage-way may be closed, except when necessary to be opened for the passage of logs and lumber.

Obstructing
channel.

§ 4. Any person wilfully obstructing, by booms or otherwise, the channel of that part of said river, so that the space above mentioned shall not be open for use, shall be liable to a penalty of twenty-five dollars for each and every day of the continuance of such obstruction, to be sued for and collected by every or any person aggrieved by such obstruction.

Floating of
logs or lum-
ber.

§ 5. Any person desiring to float logs or lumber down that part of said river, may construct a shoal, shute or apron, in connection with any dam now across that part of said river, and may reconstruct any booms already made or constructed in, over and across that part of said river, in a suitable manner to allow logs and lumber to pass by the same, doing no unnecessary injury to the owners or occupants of said dams or booms, and paying to such owner or occupants for such damages as he or they may sustain by reason of the alteration

of such dams or booms; nor shall this act be construed to impair or lessen any private or individual rights.

[Sections 6, 7, 8, 9, temporary.]

CHAP. 643.

AN ACT declaring Beaver river a public highway, and regulating the passage of logs and timber down the same.

PASSED July 21, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Beaver river, from the head of the Albany Bridge lake to its junction with Black river, is hereby declared a public highway for the purpose of floating logs and timber.

River declared a highway.

§ 2. All booms hereafter made on said river shall be so constructed as to admit of an open passage, or waterway, of at least thirty feet in width; and the said passage shall be opened for the purpose of passing logs and timber, without endangering thereby the rights and property of owners and occupants of said booms.

Booms how constructed.

§ 3. Any person wilfully obstructing, by booms or otherwise, the channel of said river, so that it may not be open for use as provided in the preceding section, shall be liable to a penalty of twenty-five dollars for each day of the continuance of said obstruction, to be sued for and collected by any person aggrieved by said obstruction.

Penalty for obstructing the channel.

§ 4. Persons desirous of floating logs or timber down the said stream may construct a chute or apron, in connection with any dam across said stream, and may reconstruct any booms already constructed or hereafter to be constructed in, over or across said stream, in such manner as to allow logs to pass the same, doing no unnecessary damage to the owner or occupants of said boom, and paying to such owner or occupants such damages as he or they may sustain by reason of the alteration of said dam or booms, to be ascertained by three commissioners appointed by the county judge of Lewis county, on the application of either party, and notice of ten days to the other party, unless the parties can agree.

An apron may be constructed in connection with dam.

§ 5. This act shall not be construed to impair or abridge any private or individual rights in the construction of bridges, dams or booms across said river, except so far as is necessary for the improvement of said river, and making it a public highway for the purpose of floating logs and timber down the same.

Commissioners may be appointed to ascertain damage.

Saving clause.

CHAP. 222.

AN ACT declaring the west branch of the St. Regis river a public highway, and for regulating the passage of logs and lumber down the same.

PASSED April 13, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Declared a highway.

Dams and booms how constructed.

§ 1. The west branch of the St. Regis river is hereby declared a public highway, for the purpose of floating logs and lumber down the same, from where the said river enters St. Lawrence county to the south line of the town of Stockholm, in said county; and all dams and booms hereafter erected on said river shall be so constructed as to have a free passage, for logs and lumber, of at least thirty feet in width, and any person or persons desirous of running logs or lumber down said river may rearrange any booms or dams already constructed, so as to pass said logs or lumber through or over the same.

CHAP. 395.

AN ACT declaring Salmon river a public highway.

PASSED April 17, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Highway.

§ 1. The Salmon river and its several branches, situated in the county of Franklin, is hereby declared a public highway, for the purpose of floating saw logs, fire-wood and timber, from their respective sources, to the point in the town of Malone where the same is now by law a public highway.

Dams.

§ 2. There shall no dam be hereafter erected on the said river, or any of its branches, without an apron of at least thirty feet in width in the middle of the current of the river, of a proper slope for the passage of logs and timber.

Booms.

§ 3. All booms made on said river, above any dam, shall have an open passage way of at least twenty feet in width; but the said passage way may be closed, except when necessary to be opened for the passage of logs.

Penalty for obstructing channel.

§ 4. Any person wilfully obstructing, by booms or otherwise, the channel of said rivers, so that the said space of twenty feet in width shall not be open for use, shall be liable to a penalty of twenty-five dollars for each day of the continuance of said obstruction, to be sued for and collected by any person aggrieved by such obstruction.

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Aprons and
shoals.

§ 5. Persons desirous of floating logs or lumber down the said stream may construct a shoal or apron in connection with any dam across said stream, and may reconstruct any booms already constructed in, over and across said streams, in such manner as to allow logs and lumber to pass by the same, and may construct such other piers, booms and dams as may be necessary for the passage of saw logs over and through the said channels, doing no unnecessary injury to the owner or occupants of said booms and dams, or to the owners or occupants of any lands on which piers, booms or dams may be constructed, or lands flooded thereby, and paying to such owner or occupants such damages as he or they may sustain by reason of such alteration of said dam or boom, or by reason of the construction of piers, booms and dams, and flowing water by the same, or by the carelessness or inattention of such parties or their employees in and about such dams or booms, to be appraised by commissioners to be appointed by the county court of the county of Franklin, on the application of any person interested in the appraisal of such damage, on ten days' notice, in writing, to the opposite party or parties of the time and place of making such application. This act shall not be construed to impair or abridge any private or individual rights, except so far as is necessary for the improvement of said rivers for floating logs and lumber down the same.

Damages.

§ 6. Any person making claims for damages, arising under this act, shall apply for the same within one year from the accruing of the same, or be barred from recovering the same.

Claim,
when to be
presented.

§ 7. Every person who shall put any logs or lumber into the said stream, or either of its branches, for the purpose of floating them down the same, shall select some mark, different from any mark previously recorded, and put the same on to each log or stick of timber, in a conspicuous place, so put into said river or its branches, and shall cause his mark to be recorded in the town clerk's office, in the town of Malone.

Marking
logs.

§ 8. Every person who shall neglect to enter his mark, as required in the foregoing section, shall be debarred from all benefits arising from the due entry of such mark, and the assignee or vender of any such logs or timber shall be subject to the same regulation and restrictions.

Penalty for
not enter-
ing mark.

§ 9. The clerk of the town of Malone shall be entitled to the sum of twenty-four cents for entering every such mark, to be paid by the person requiring the same to be entered; and a copy of such entry, certified by the clerk, shall be received as presumptive evidence, in all courts in this state, that the lumber having such mark is the property of the person by whom such mark was selected and recorded.

Fees for
entering
mark.

§ 10. No person not authorized, as hereinbefore directed, shall stop, take up or draw to, or lodge on the shore of the above named streams, or any island therein, on either shore of said streams, any logs, timber, boards or plank floating in

Penalty for
stopping
logs.

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said streams, without the consent of the owner thereof; and every person offending in the premises shall, for every such offence, forfeit the sum of ten dollars, to be recovered by the overseers of the poor of the village or town where the offence was committed, for the use of the poor thereof.

CHAP. 474.

AN ACT making Ten Mile river a public highway.

PASSED April 15, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Floating
rafts, &c.

§ 1. Ten Mile river, in the county of Sullivan, in this state, is hereby declared to be, and the same is hereby made a public highway forever, from Stevens' dam at Cochection Centre in the town of Cochection in said county, to the Dunn role-way at or near the head of Mapes' pond in the town of Tusten in said county, for the purposes of rafting, running, floating and navigating rafts, lumber, timber and logs, in, on and through said stream, and any and every portion thereof, between the points aforesaid. But nothing herein contained shall be construed to prevent any owner of the lands through which the said stream runs from erecting, building or constructing any dam or dams across the same, provided such dam or dams be so erected and constructed as not to interfere with or obstruct the navigation of said stream, for the purposes hereinbefore specified.

CHAP. 394.

AN ACT declaring the easterly branch of the St. Regis river a public highway.

PASSED April 14, 1860 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Portion of
river a
public
highway.

§ 1. That part of the St. Regis river between the St. Regis lake and the easterly line of the town of Stockholm, in the county of St. Lawrence, is hereby declared and constituted a public highway, for the purpose of floating logs, timber or lumber down the same, and upon that part of said river no person shall hereafter be allowed to erect a dam without an apron or chute of at least twenty feet wide in the current of the said stream in the roll-way of said dam, of a proper slope and good and sufficient supports and fixtures, for the purpose of running logs, timber or lumber; and all booms hereafter made on that part of said river shall have an opening or a passage of at least twenty feet wide in the current of said

Width of
opening
of booms.

stream, and said passage way may be closed except when necessary for the purpose of running logs, timber or lumber; and any person desirous to float logs, timber or lumber down said stream or that part of the same, may construct a shore or chute or apron in connection with any dam now made or standing therein, and may alter or reconstruct any booms now made or constructed over and across said stream in a suitable manner to allow logs, timber or lumber to pass down, doing no unnecessary injury or damage to the owners or occupants of the lands or fixtures along said stream, and paying to such owners or occupants such damages as he or they may actually sustain by reason of such alteration of such dams or booms, and the flowing of water by the same, or by any carelessness or inattention of such persons or their employees in and about such dam or booms, to be appraised by commissioners to be appointed by the county judge of the county of Franklin, on the application of any person entitled to and claiming such damages, on ten days' notice in writing being given by the party claiming, to the opposite party, of the time and place of making such application.

What persons desirous to float logs may do.

As amended by Laws of 1866, ch. 117.

§ 2. In case of any person making such necessary improvements, or doing any unnecessary injury or damage to the lands or fixtures along said stream, shall, within eight days from the service of the aforesaid notice, tender to the party complaining a sum in current money of the United States sufficient to pay such actual damages, together with the necessary expense of making and serving such notice, then the party complaining shall pay all costs and expenses of the appointment of such commissioners and their services in appraising such damages.

Proceedings in case of damage to lands.

§ 3. In case the party complained against shall fail to pay, within eight days after the service of notice upon him to the party complaining, such reasonable damages and costs as aforesaid, according to the award of said commissioners, then the party complained against shall pay all costs as above, and also the award of said commissioners, to be sued for and collected before any court of competent jurisdiction to try the same, according to the laws of this state.

§ 4. Any person making claim for damages under this act shall make application for the same, and make service of the notice required within one year from the time such damages accrued, or be forever barred from recovering the same. Any person willfully obstructing, by booms or dams or otherwise, the channel of that part of said river, so that the space of twenty feet in the channel thereof shall not be open for use when necessary for the purpose of running logs, timber or lumber, shall be liable to a penalty of twenty-five dollars for each and every day of the continuance of such obstructions,

Claims for damages to be made within one year.

Penalty for willfully obstructing dams, booms, &c.

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to be sued for and collected in the name of the person injured before any court of competent jurisdiction, according to the laws of this state. The state shall in no case be liable for any damages to owners or occupants of lands, or fixtures upon the said river, hereby declared to be a public highway.

As amended by Laws of 1866, ch. 117.

CHAP. 30.

AN ACT to authorize the erection of posts, with the necessary appendages, for rope ferries.

PASSED February 28, 1861.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful for any person or persons, licensed under the laws of this state to keep a ferry, with the consent, in writing, of the commissioners of the highways, or a majority of them, to erect and maintain, within the limits of any highway, at such point as shall be designated in said consent, a post or posts, with all necessary braces and appendages, for a rope ferry.

CHAP. 160.

AN ACT to punish wilful injuries to railroads.

PASSED April 6, 1838.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Every person who shall wilfully, with malicious intent, remove, break, displace, throw down or destroy, any iron, wooden or other rail, or any branches or branch ways, or any part of the tracks, or any bridge, viaduct, culvert, embankment, or other fixture, or any part thereof, attached to or connected with such tracks of any railroad in this state now in operation, or which shall hereafter be put in operation, or who shall wilfully with like malicious intent, place any obstructions upon the rails or tracks of such railroad, shall upon conviction, be punished by imprisonment in the state prison not exceeding five years, or in a county jail not less than six months. Punishment.

§ 2. The preceding section shall not be so construed as to extend to cases where death to a human being shall result from the commission of either of the offences mentioned in said section. Excepting in cases of death.

§ 3. The act entitled "An act to prevent injury being done to any railroad within this state, and insure the safety of passengers upon the same," passed April 26, 1834, is hereby repealed; but this section shall not affect any suit, already commenced for a violation of any of the provisions of the act hereby repealed, or any penalty that may have already accrued under the said act. Repeal.

2 B. Ch., 497.

CHAP. 218.

AN ACT authorizing railroad companies to contract with each other.

PASSED April 23, 1839.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. It shall be lawful hereafter for any railroad corporation to contract with any other railroad corporation for the use of their respective roads, and thereafter to use the same in such manner as may be prescribed in such contract. But nothing in this act contained shall authorize the road of any railroad corporation, to be used by any other railroad corporation, in a manner inconsistent with the provisions of the charter of the corporation whose railroad is to be used under such contract. Companies may contract.

16 B., 318.

CHAP. 230.

AN ACT in relation to the Contracts of Railroad Companies.

PASSED May 13, 1845.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Limitation
in amount
of debt.

§ 1. No debt or debts shall be contracted or incurred by or on behalf of any incorporated railroad company beyond or exceeding its available means in its possession, under its control and belonging to it, including its bona fide and available stock subscriptions and exclusive of its real estate at the time the same shall be contracted or incurred to pay and discharge the same and all its debts previously contracted or incurred: and every officer, agent or stockholder of said company who shall knowingly assent to or have any agency in contracting or incurring any debt in violation of the provisions of this section shall be personally and individually liable to pay such debt, and shall also be liable to arrest and imprisonment in any action for the same and on any execution issued on any judgment obtained for the same in the same manner as defendants in actions of trespass are now liable: and shall also be deemed guilty of a misdemeanor: but the debts contracted in violation of the provisions of this section shall not be deemed invalid as against said company by reason thereof: Provided that nothing herein contained shall apply to any loan which any company shall be expressly authorized by law to make over and above the available means aforesaid.

CHAP. 155.

AN ACT in relation to railroad charters.

PASSED May 9, 1846; by a two-third vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Seventh
section not
to apply in
certain
cases.

§ 1. The seventh section of title third, chapter eighteenth, of the first part of the Revised Statutes shall not be so construed as to apply to any act for incorporating a railroad company, which has or shall have in its own provisions the terms and the time in which it shall be forfeited for non-user.

Ante, Vol. 1, p. 557.

CHAP. 215.

AN ACT to incorporate the New York and Connecticut Railroad Company.

PASSED May 12, 1846; by a two-third vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 17. Every railroad company, upon being thereto required by the Postmaster General of the United States, shall enter into a contract with the United States, in the usual form and with the usual conditions of such contracts, for transporting the mails of the United States upon its railroad, for such compensation as the said board shall deem reasonable, not exceeding that provided by an act of Congress entitled "An act to reduce the rates of postage, to limit the use and correct the abuse of the franking privileges, and for the prevention of frauds on the revenues of the Post Office department," approved March 3d, 1845; and every railroad company that shall neglect or refuse to enter into such contract, upon being so required, shall forfeit and pay to the people of this state one hundred dollars for every day it shall so neglect or refuse.

Every railroad company required to contract for carrying the U. S. mail.

§ 18. The Legislature may at any time alter or repeal this act.

Right to repeal.

CHAP. 222.

AN ACT in relation to railroad corporations.

PASSED May 7, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Every railroad company whose railroad shall, at or near the same place, connect with, or be intersected by, two or more other railroads which are competing lines for the business to or from such railroad, shall fairly and impartially grant and afford to the proprietors of each of such connecting or intersecting railroads, equal terms of accommodations, privileges and facilities in the transportation of cars, passengers, baggage and freight, over and upon their railroads, and over and upon such connecting or intersecting railroads; and shall also grant and afford the proprietors of each of said connecting or intersecting railroads, equal facilities in the interchange and use of passenger, baggage, freight and other cars, so far as may be required to accommodate the business of each railroad; and also, in furnishing passage tickets to passengers who may have come over, or may wish to go over either of such connecting or intersecting railroads; and if the proprie-

Terms of accommodation to be made to connect railroads of different companies.

PART I.

tors of either of such connecting or intersecting railroads, shall deem themselves aggrieved by the arrangements or conduct of the company with whose railroad their railroad connects in the premises; such proprietors may make application by petition to the governor of this state on giving fourteen days' notice to the companies or proprietors of the railroads with which their railroad connects, for the appointment of three commissioners, to enquire into the alleged complaints; and it shall be the duty of said governor, to appoint three disinterested persons as commissioners, who shall summarily examine into the alleged grievances; and shall prescribe such regulations in the premises, as will in their judgment, secure the enjoyment of equal privileges, accommodations and facilities to the proprietors of the said connecting or intersecting railroads, in the transportation, use and interchange of cars, passengers, baggage and freight, as may be required to accommodate the business of each of said railroads; and in the management and conduct of the several railroads connecting with each other; and the said commissioners shall also determine and fix the terms and conditions upon which such facilities and accommodations shall be afforded to each of said connecting railroads. The award of the commissioners, when approved by the supreme court, shall be binding on the parties for two years, and the court shall have power to compel the performance thereof by attachment, mandamus, or otherwise. And the expenses of the foregoing proceedings, shall be paid by such of the parties as shall be determined on by said court.

29 B., 57; 16 B., 318.

CHAP. 270.

AN ACT relating to the transportation of freight on certain Railroads.

PASSED May 12, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Utica and
Schenec-
tady R. R.
Company.

§ 1. The Utica and Schenectady railroad company are hereby authorized to take and transport upon their railway all goods, chattels and other property that may be offered for transportation.

24 N. Y., 269.

Tolls to be
fixed.

§ 2. The said company may from time to time fix, regulate and receive reasonable tolls and compensation for such transportation.

Returns,
how and to
whom made

§ 3. The said company shall make returns, at such periods and in such manner as may be directed by the commissioners of the canal fund, of all the goods, chattels and other property transported upon said railroad by virtue of this act, and shall pay into the treasury of the state the same tolls per

mile on all goods, chattels and other property so transported as would have been paid on them from the point of receipt to the point of delivery, had they been transported on the Erie canal. When the distance by canal from the point of receipt to the point of delivery, is greater than the distance by railroad, the amount of toll charged on such greater distance, shall be paid by each company in proportion to the length of each road over which said freight shall be transported. Nothing in this act contained shall be so construed as to compel the Schenectady and Troy, or Troy and Greenbush railroads collectively or separately, to pay a greater amount of tolls, as per mile on the canal, than is paid by the Albany and Schenectady railroad.

§ 4. The Albany and Schenectady, the Troy and Schenectady, the Syracuse and Utica, the Auburn and Syracuse, the Auburn and Rochester, the Tonawanda and the Attica and Buffalo railroad companies are also required to make returns in the same manner and subject to the same regulations as are provided in the third and seventh sections of this act, and shall pay the same tolls as is provided for in the said third section: but the canal board shall make such rules and regulations regulating the transportation of freight on the said roads west of Utica, so as to continue to the said roads the privilege of transporting local freight, without the payment of toll wherever they now enjoy that privilege, and to enforce and ensure the collection and payment of tolls on all such freight as shall be carried on the said roads by reason of the privileges in this act granted to the Utica and Schenectady railroad; but no freight passing from any one of said railroads to a connecting railroad to be transported thereon, shall be deemed local freight on either road.

Other R. R. companies to make returns in the same manner.

§ 5. The Oswego and Syracuse railroad company are hereby authorized to transport freight on their railroad when constructed during the whole year, subject to the provisions of this act.

Oswego and Syracuse R. R. Co.

§ 6. The tolls collected by the state for freight transported on railroads, as provided in this act, shall be deemed to belong to the canal fund, and shall be paid over and applied in the same manner as tolls collected on freight transported on the canals of this state.

Tolls collected by state to belong to canal fund.

§ 7. The commissioners of the canal fund shall have power to prescribe the manner in which such tolls shall be collected, and to enforce the collection and payment of the same, and every railroad company above named which shall neglect or refuse to comply with any regulation of the commissioners of the canal fund, or of the canal board, made pursuant to the provisions of this act, shall forfeit to the people of this state for every day of such neglect or refusal the sum of five hundred dollars; and in every case of such forfeiture, it shall be the duty of the attorney-general to sue for the penalty in the name of the people.

Canal fund commissioners to prescribe manner and enforce collection.

PART I.
Saving
clause.

§ 8. No provision of the preceding sections of this act shall be deemed in any way to affect the ordinary baggage of passengers, provided the same shall not exceed in weight one hundred pounds.

Rights of R.
R. compa-
nies.

§ 9. Any railroad company receiving freight for transportation shall be entitled to the same rights and be subject to the same liabilities as common carriers. Whenever two or more railroads are connected together, any company owning either of said roads, receiving freight to be transported to any place on the line of either of the said roads so connected shall be liable as common carriers for the delivery of such freight at such place. In case any such company shall become liable to pay any sum by reason of the neglect or misconduct of any other company or companies the company paying such sum may collect the same of the company or companies by whose neglect or misconduct it became so liable.

Act, when
to take
effect.

§ 10. This act shall take effect on the first day of November next, and the legislature may at any time alter or repeal the same.

CHAP. 272.

AN ACT to authorize Railroad Companies to lay down upon their roads the heavy iron rail, to alter the line of their road, and to acquire the title to lands which has failed.

PASSED May 12, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Stock may
be increas-
ed to pro-
cure heavy
iron rail.

§ 1. Any railroad company, whose track is now laid in whole, or in part with the flat bar rail, on which steam power is used in propelling cars, are hereby authorized to increase their capital stock, or to borrow on the security of said road, its appurtenances and franchises, as the directors of such company may determine, subject, however, to all previous incumbrances to the state or individuals, an amount sufficient to enable such company to substitute upon their track or tracks the heavy iron rail, every lineal yard of which shall weigh at least fifty-six pounds, for the flat iron rail now in use: But nothing herein contained, shall be construed to authorize the borrowing of money, or the increase of the capital stock of any railroad company for any other purpose than that of substituting the heavy iron rail for the flat bar rail as aforesaid, and the erection of such superstructure as may be necessary or proper to receive such heavy rail, nor shall it be used for any other purpose: And provided also, that no increase of capital or indebtedness on the part of such railroad company, shall exceed in the aggregate, the sum of ten thousand dollars per mile, for each mile of the entire length of their said railroad.

CHAP. XVI.
Time limited for laying heavy rail.

§ 2. Any railroad company hereinafter mentioned, on whose road steam power is employed in propelling cars, having the flat bar rail in use, in whole or in part on their track or tracks, who shall not commence to relay the same by or before the first day of January, next after the passage of this act, with the heavy iron rail, as provided in the first section of this act, shall not be allowed to divide more than three per cent. per annum, on their capital stock paid in, for the present year of eighteen hundred and forty-seven; and if one track be not completed within two years from the first day of January eighteen hundred and forty-seven, they shall not be allowed to divide more than one per cent per annum thereon for the year eighteen hundred and forty-eight, nor annually thereafter until they shall have relaid at least one track of the entire length of their railroad with said heavy iron rail: But all excess of earnings, over and above expenditures, and the dividends aforesaid, by every such railroad company, shall constitute a sinking fund, which shall not be used for any other purpose than that of substituting the heavy iron rail for the flat bar rail now in use on their said tracks or roads: And the neglect or refusal on the part of any such railroad company, so to substitute the heavy iron rail for the flat bar rail on their railroad track or tracks, for the term of three years from and after the passage of this act, shall be deemed to work a forfeiture of their charter. The Albany and Schenectady, the Troy and Schenectady, the Schenectady and Utica, the Utica and Syracuse, the Syracuse and Auburn, the Auburn and Rochester, the Tonawanda and the Attica and Buffalo railroad companies, are hereby declared severally subject to the provisions of this section.

Roads subject to this section.

§ 3. In any case where a railroad shall not have acquired a valid and sufficient title to any land upon which they have constructed their tracks, or where the title to any such lands has been or shall hereafter be rendered invalid by reason of any mortgage, judgment or other lien, affecting the same, then such company in either case is authorized to obtain and acquire title to the said land, by purchase of the persons, bodies corporate or politic owning the same, or having an interest therein, if such purchase can be effected by agreement between the owners thereof and such company: but if not, such company shall have the power to cause compensation to be made therefor, and for that purpose they shall present a petition to a court of record in the county in which such land may lie, setting forth the failure of such title, and the manner in which such failure occurred, and the name and residence of the owner or claimants, and praying for the drawing of a jury to determine the compensation to be made therefor. The said court of record shall thereupon direct notice to be given in writing to the owners or claimants of such lands, of the time and place of the drawing of such jury, which drawing shall be in the county in which such lands are

Provision to enable companies to acquire valid title to lands.

PART I.

situated, and upon proof of the service of such notice and hearing, the parties who may attend such court of record shall cause such jury to be drawn in such manner and at such place as it shall direct; said court shall cause the said jury to be sworn, and shall prescribe the time and place of the meeting of said jury, and the notices to be given to the owners or claimants, of the proceedings before said jury. The said jury shall view the premises for which compensation is to be made, and shall, without fear, favor, or partiality, determine the compensation to be made for said land, the title to which shall have become invalid or insufficient as aforesaid, and may hear and examine witnesses on oath in relation to the same. The said jury shall make an inquisition of their appraisement or assessment, and shall cause the same to be filed in the office of the clerk of the county in which such land is situated. Upon proof to the court within thirty days after the filing of the inquisition of the jury, of payment to the owner or claimant, or of depositing to his or their credit in such bank as the said court shall direct, of the amount of such appraisement, and of all the costs and expenses attending it, including reasonable counsel fees (to be taxed and certified by said court) the said court shall make an order describing the land and reciting the assessment or appraisement thereof, and the mode of making it, which order shall be recorded in the office of the clerk of the county in which the land is situated, in like manner as if the same were a deed of conveyance, and such railroad company or corporation shall thereupon become possessed of such land during the continuance of the corporation, and may use the same for the purposes of such corporation. This provision shall not be construed to change or impair the duties or obligations of such corporation in regard to fencing such land, or making and maintaining crossing places over said road, as prescribed in their charter; but nothing herein contained shall be construed to impair or affect the right of any individual to recover the costs and expenses of any legal proceedings commenced prior to the passage of this act, or to recover such sum for the use of any land occupied by such corporation as he or she is entitled to by law.

20 B., 423.

Line of road
may be
changed.

§ 4. Any railroad company is hereby authorized to change portions of the line of its railroad track for the purpose of improving the grades or curves, provided that in no case such alteration or change shall vary the track of such railroad to exceed one mile, laterally, from its present location at any point; but nothing herein contained shall be construed to authorize any railroad company to obtain the lands or right of way for said purposes in any other manner than by purchase or voluntary consent of parties.

Iron rails
weighing 56
pounds to

§ 5. Every railroad, the track of which shall hereafter be constructed or relaid in whole or in part, the rail laid down

shall be of iron and of at least fifty-six pounds weight to every lineal yard, and for the purpose of enabling the companies owning such tracks, or authorized to construct a railroad track to comply with the provisions of this section, they are hereby authorized to increase their capital stock or borrow money upon the security of their road, its appurtenances and franchises, according to the provisions of the first section of this act, but nothing herein contained shall be so construed as to authorize the increase of capital or the borrowing of money for any other purpose.

§ 6. It shall be the duty of every railroad company hereafter to furnish and attach checks to each separate parcel of baggage which they by their agents or officers receive from any person for transportation as ordinary or extraordinary baggage in their baggage cars accompanying their passenger trains, and they shall also furnish to such a person duplicate check or checks having upon it or them a corresponding number to that attached to each parcel of baggage; said checks and duplicates shall be made of some proper metallic substance, of convenient size and form, plainly stamped with numbers, and each check furnished with a convenient strap or other appendage for attaching to baggage, and accompanying it a duplicate to be delivered to the person delivering or owning such baggage. And whenever the owner of said baggage or other person shall, at the place where the cars usually stop, to which said baggage was to be transported, or at any other regular stopping place, present said duplicate check or checks to the officer or agent of the railroad or any railroad over any portion of which said baggage was transported, they shall deliver it up to the person so offering the duplicate check or checks without unnecessary delay. And a neglect or refusal on the part of any railroad company, its officers or agents, to furnish and attach to any person's ordinary traveling baggage or extraordinary baggage if conveyed by their passenger train, a suitable check or checks, and to furnish to such person proper duplicate or duplicates, shall forfeit and pay to such person or owner, for every such refusal or neglect, the sum of ten dollars, to be recovered in an action for debt.

CHAP. XVI.
the yard to
be laid.

Checks to
be furnish-
ed and at-
tached to
each parcel
of baggage

Baggage,
when to be
given to
owner.

CHAP. 404.

AN ACT to enable railroad companies to alter their routes and to acquire title to lands.

PASSED November 27, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any railroad company, the route of whose railroad or of some part thereof shall have been located in the manner

Routes may
be changed
in certain

PART I.
cases and
title to land
acquired

prescribed by law, may change any part of such route so located, on which its railroad shall not have been constructed, but no such change shall vary the route of such railroad to exceed one mile laterally from the route which shall have been so located; and the new location of any portion of such route when so changed shall be made in the same manner, as nearly as may be, as the first location was required by law to be made. When any portion of such route shall be so changed, such company may take and hold such lands for the construction of its railroad over such portion of its route as it would have been authorized by law to take and hold for that purpose if such portion of its route had originally been located as it shall be by such change; and when the owner of any such lands shall from any cause be incapable of selling the same, or if such company cannot agree with such owner for the purchase thereof, or if after diligent search and enquiry the name and residence of such owner cannot be ascertained, such company may acquire the title to such lands in the manner prescribed by the twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-seventh, twenty-eighth, twenty-ninth, and thirtieth sections of chapter two hundred and ten of the laws of eighteen hundred and forty-seven.

Title, how
to be ac-
quired in
case of dis-
agreement,
&c.

§ 2. Every railroad company chartered in this state or authorized to construct any portion of its railroad therein, when the owner of any lands which it shall be authorized by the laws of this state to take for the construction of its railroad, shall from any cause be incapable of selling the same, or if such company cannot agree with such owner for the purchase thereof, or if after diligent search and enquiry the name and residence of such owner cannot be ascertained, may acquire the title of such owner to any such lands in the manner prescribed by the sections of chapter two hundred and ten of the laws of eighteen hundred and forty-seven, which are specified in the first section of this act.

18 W., 9.

Lands,
when to be
held by
companies.

§ 3. When the title to any lands shall be acquired by any railroad company pursuant to the provisions of this act, such company shall hold the same in the same manner which it is authorized by law to hold lands acquired for the construction of its railroad

CHAP. 405.

AN ACT to authorize certain railroad companies to issue stock or to borrow money to lay a second track.

PASSED November 27, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Each railroad company embraced within the provisions of the first section of chapter two hundred and seventy-two of the laws of eighteen hundred and forty-seven, is hereby authorized to increase its capital stock or to borrow money on the security of its railroad appurtenances and franchises, as the directors of such company may determine, subject however, to all previous incumbrances, and debts in favor of this state, and of individuals to such an amount subject to the limitation hereinafter expressed, as may be sufficient for the purpose of putting so much of its railroad as such directors shall deem expedient, in a proper condition to receive a second track, of procuring iron for such track and of laying the same with an iron rail, weighing not less than fifty-six pounds to the lineal yard; but nothing herein contained shall be construed to authorize such an increase of stock or borrowing of money by such company for any other than the aforesaid purpose, nor shall such money or stock be used for or applied to any other purpose, nor shall the increase of stock or the money borrowed by virtue of this section exceed in the aggregate the sum of ten thousand dollars for each mile of the railroad of such company, which it shall so put in a condition to receive such second track for which it shall procure the iron for such track, and on which it shall lay such second track with a heavy rail as aforesaid.

Companies may increase their stock or borrow money.

CHAP. 140.

AN ACT to authorize the formation of railroad corporations, and to regulate the same.

PASSED April 2, 1850; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any number of persons, not less than twenty-five, may form a company for the purpose of constructing, maintaining and operating a railroad for public use in the conveyance of persons and property, or for the purpose of maintaining and operating any unincorporated railroad already constructed, for the like public use; and for that purpose may make and sign articles of association, in which shall be stated the name of

Manner of organization.

PART I.

Articles to
be filed in
secretary's
office.

the company; the number of years the same is to continue, the places from and to which the road is to be constructed, or maintained and operated; the length of such road as near as may be, and the name of each county in this state through or into which it is made, or intended to be made; the amount of the capital stock of the company, which shall not be less than ten thousand dollars for every mile of road constructed, or proposed to be constructed, and the number of shares of which said capital stock shall consist and the names and places of residence of thirteen directors of the company, who shall manage its affairs for the first year, and until others are chosen in their places. Each subscriber to such articles of association shall subscribe thereto his name, place of residence, and the number of shares of stock he agrees to take in said company. On compliance with the provisions of the next section, such articles of association may be filed in the office of the secretary of state, who shall endorse thereon the day they are filed, and record the same in a book to be provided by him for that purpose; and thereupon the persons who have so subscribed such articles of association, and all persons who shall become stockholders in such company, shall be a corporation by the name specified in such articles of association, and shall possess the powers and privileges granted to corporations, and be subject to the provisions contained in title three of chapter eighteen of the first part of the Revised Statutes, except the provisions contained in the seventh section of said title.

20 N. Y., 158; 16 N. Y., 454; 12 N. Y., 249, 305, 630; 11 N. Y., 277;
10 N. Y., 461; 32 B., 616; 25 B., 290; 17 B., 581; 15 B., 37.

Conditions
of filing.

§ 2. Such articles of association shall not be filed and recorded in the office of the secretary of state, until at least one thousand dollars of stock for every mile of railroad proposed to be made is subscribed thereto, and ten per cent paid thereon in good faith, and in cash, to the directors named in said articles of association; nor until there is endorsed thereon, or annexed thereto, an affidavit made by at least three of the directors named in said articles, that the amount of stock required by this section has been in good faith subscribed, and ten per cent paid in cash thereon as aforesaid, and that it is intended in good faith to construct or to maintain and operate the road mentioned in such articles of association; which affidavit shall be recorded with the articles of association as aforesaid.

32 B., 363, 405; 21 B., 546.

Evidence of
incorpora-
tion.

§ 3. A copy of any articles of association filed and recorded in pursuance with this act, or of the record thereof, with a copy of the affidavit aforesaid endorsed thereon or annexed thereto, and certified to be a copy by the secretary of this state, or his deputy, shall be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Manner of
subscribing
for addi-
tional stock

§ 4. When such articles of association and affidavit are filed and recorded in the office of the secretary of state, the

directors named in said articles of association may, in case the whole of the capital stock is not before subscribed, open books of subscription to fill up the capital stock of the company, in such places and after giving such notice as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber shall pay to the directors ten per cent on the amount subscribed by him, in money; and no subscription shall be received or taken without such payment.

For § 5 see Laws of 1854, ch. 282. Post, p. 640; 28 B, 258.

§ 6. The directors shall appoint one of their number president: they may also appoint a treasurer and secretary, and such other officers and agents as shall be prescribed by the by-laws.

Officers,
how ap-
pointed.

§ 7. The directors may require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed, in such manner and in such instalments as they may deem proper. If any stockholder shall neglect to pay any instalment as required by a resolution of the board of directors, the said board shall be authorized to declare his stock, and all previous payments thereon, forfeited for the use of the company; but they shall not declare it so forfeited, until they shall have caused a notice in writing to be served on him personally, or by depositing the same in the post-office, properly directed to him at the post-office nearest his usual place of residence, stating that he is required to make such payment at the time and place specified in said notice; and that if he fails to make the same, his stock and all previous payments thereon, will be forfeited for the use of the company; which notice shall be served as aforesaid, at least sixty days previous to the day on which such payment is required to be made.

Subscrip-
tions, how
paid.

Forfeited
for nonpay-
ment.

16 N. Y., 379.

§ 8. The stock of every company formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed by the by-laws of the company, but no shares shall be transferable until all previous calls thereon shall have been fully paid in; and it shall not be lawful for such company to use any of its funds in the purchase of any stock in its own, or in any other corporation.

Stock de-
clared per-
sonal estate

Company
may not
purchase
stock.

§ 9. In case the capital stock of any company formed under this act, is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, increase its capital stock from time to time, to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served

Increase of
stock, how
made, and
to what ex-
tent.

PART I.

on him personally, or by depositing the same, properly folded and directed to him, at the post office nearest his usual place of residence, in the post office, at least twenty days prior to such meeting. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid.

For § 10 see Laws of 1854, ch. 282. Post, p. 645.

Representative stock.

§ 11. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholders of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estates and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator, or intestate, or the ward, or person interested in such trust fund would have been, if he had been living and competent to act, and held the same stock in his own name.

Lien of laborers for construction.

§ 12. As often as any contractor for the construction of any part of a railroad, which is in progress of construction, shall be indebted to any laborer, for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said company in the manner herein provided; and said company shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said company therefor. Such notice shall be given by said laborer, to said company, within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor and the time when the same was performed, for which the claim is made, and the name of the contractor from whom due, and shall be signed by such laborer, or his attorney; and shall be served on an engineer, agent or superintendent employed by said company, having charge of the section of the road on which such labor was performed, personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent, with some person of suitable age. But no action shall be maintained against any company under the provisions of this section, unless the same is commenced within thirty days after notice is given to the company by such laborer as above provided.

Notice of claim to be given.

Contents of notice.

How served

Limitation of action.

§ 13. In case any company formed under this act is unable to agree for the purchase of any real estate required for the purposes of its incorporation, it shall have the right to acquire title to the same, in the manner and by the special proceedings prescribed in this act.

20 B, 419.

§ 14. For the purpose of acquiring such title, the said company may present a petition praying for the appointment of commissioners of appraisal, to the supreme court, at any general or special term thereof held in the district in which the real estate described in the petition is situated. Such petition shall be signed and verified according to the rules and practice of such court. It must contain a description of the real estate which the company seeks to acquire; and it must, in effect, state that the company is duly incorporated, and that it is the intention of the company, in good faith to construct and finish a railroad from and to the places named for that purpose in its articles of association; that the whole capital stock of the company has been in good faith subscribed as required by this act; that the company has surveyed the line or route of its proposed road, and made a map or survey thereof, by which such route or line is designated, and that they have located their said road according to such survey, and filed certificates of such location, signed by a majority of the directors of the company, in the clerk's office of the several counties through or into which the said road is to be constructed; that the land described in the petition is required for the purpose of constructing or operating the proposed road; and that the company has not been able to acquire title thereto, and the reason of such inability. The petition must also state the names and places of residence of the parties, so far as the same can by reasonable diligence be ascertained, who own or have, or claim to own or have estates or interests in the said real estate; and if any such persons are infants, their ages, as near as may be, must be stated; and if any of such persons are idiots, or persons of unsound mind, or are unknown, that fact must be stated, together with such other allegations and statements of liens or incumbrances on said real estate as the company may see fit to make. A copy of such petition, with a notice of the time and place the same will be presented to the supreme court, must be served on all persons whose interests are to be affected by the proceedings, at least ten days prior to the presentation of the same to the said court.

1. If the person on whom such service is to be made, resides in this state, and is not an infant, idiot or person of unsound mind, service of a copy of such petition and notice must be made on him or his agent or attorney, authorised to contract for the sale of the real estate described in the petition, personally, or by leaving the same at the usual place of residence

CHAP. XVI.
Title to real
estate, how
acquired.

By petition
to supreme
court.

Allegations
necessary.

Copy peti-
tion upon
whom serv-
ed.

How served
on resi-
dents.

PART I.

of the person on whom service must be made as aforesaid, with some person of suitable age.

2. If the person on whom such service is to be made resides out of the state, and has an agent residing in this state, authorized to contract for the sale of the real estate described in the petition, such service may be made on such agent, or on such person personally out of the state; or it may be made by publishing the notice, stating briefly the object of the application, and giving a description of the land to be taken, in the state paper, and in a paper printed in the county in which the land to be taken is situated, once in each week for one month next previous to the presentation of the petition.

And if the residence of such person residing out of this state, but in any of the United States, or any of the British colonies in North America, is known, or can by reasonable diligence be ascertained, the company must, in addition to such publication as aforesaid, deposit a copy of the petition and notice in the post-office, properly folded and directed to such person at the post-office nearest his place of residence, at least thirty days before presenting such petition to the court, and pay the postage chargeable thereon in the United States.

3. If any person on whom such service is to be made is under the age of twenty-one years, and resides in this state, such service shall be made as aforesaid on his general guardian; or if he has no such guardian, then on such infant personally, if he is over the age of fourteen years; and if under that age, then on the person who has the care of, or with whom such infant resides.

4. If the person on whom such service is to be made is an idiot, or of unsound mind, and resides in this state, such service may be made on the committee of his person or estate; or if he has no such committee, then on the person who has the care and charge of such idiot or person of unsound mind.

5. If the person on whom such service is to be made is unknown, or his residence is unknown, and cannot by reasonable diligence be ascertained, then such service may be made, under the direction of the court, by publishing a notice, stating the time and place the petition will be presented, the object thereof, with a description of the land to be affected by the proceedings, in the state paper, and in a paper printed in the county where the land is situated, once in each week for one month previous to the presentation of such petition.

6. In case any party to be affected by the proceedings is an infant, idiot, or of unsound mind, and has no general guardian or committee, the court shall appoint a special guardian or committee to attend to the interests of such person in the proceedings; but if a general guardian or committee has been appointed for such person in this state, it shall be the duty of such general guardian or committee to attend to the interests of such infant, idiot or person of unsound mind;

How served
on non-resi-
dents.

Personally.
Or by publi-
cation.

If residence
is known,
copy to be
sent by
mail.

How served
on infants.

How served
on idiots.

Service,
how made
when resi-
dence is un-
known.

Court to ap-
point guar-
dian for in-
fants and
idiots.

Duties of
general
guardian.

and the court may require such security to be given by such general or special guardian or committee, as it may deem necessary to protect the rights of such infant, idiot or person of unsound mind; and all notices required to be served in the progress of the proceedings, may be served on such general or special guardian or committee.

7. In all cases not herein otherwise provided for, service of orders, notices, and other papers in the special proceedings authorized by this act, may be made as the supreme court shall direct.

Service in cases not enumerated

20 B., 419.

For sections 15 and 16 see Laws of 1854, ch. 282. Post, p. 641.

§ 17. On such report being made by said commissioners, the company shall give notice to the parties or their attorneys to be affected by the proceedings, according to the rules and practice of said court, at a general or special term thereof, for the confirmation of such report; and the court shall thereupon confirm such report, and shall make an order, containing a recital of the substance of the proceedings in the matter of the appraisal, and a description of the real estate appraised for which compensation is to be made; and shall also direct to whom the money is to be paid, or in what bank, and in what manner it shall be deposited by the company.

On coming in of report company to give notice.

Report, how confirmed.

§ 18. A certified copy of the order so to be made as aforesaid, shall be recorded at full length in the clerk's office of the county in which the land described in it is situated; and thereupon, and on the payment or deposit by the company of the sums to be paid as compensation for the land, and for costs, expenses, and counsel fees as aforesaid, and as directed by said order, the company shall be entitled to enter upon, take possession of, and use the said land for the purposes of its incorporation, during the continuance of its corporate existence, by virtue of this or any other act; and all persons who have been made parties to the proceedings shall be divested and barred of all right, estate and interest in such real estate, during the corporate existence of the company as aforesaid. All real estate acquired by any company under and pursuant to the provisions of this act, for the purposes of its incorporation, shall be deemed to be acquired for public use. Within twenty days after the confirmation of the report of the commissioners, as provided for in the seventeenth section of this act, either party may appeal, by notice in writing to the other, to the supreme court, from the appraisal and report of the commissioners. Such appeal shall be heard by the supreme court at any general or special term thereof, on such notice thereof being given, according to the rules and practice of said court. On the hearing of such appeal, the court may direct a new appraisal before the same or new commissioners in its discretion; the second report shall be final and conclusive on all the parties interested. If the amount of the compensation to be made by the company is

Order, where to be recorded.

Its effect.

Real estate thus acquired declared for public use.

Appeal, when and how brought.

When heard

New appraisal final and conclusive.

PART I.

Appeal not
to affect
possession.

increased by the second report, the difference shall be a lien on the land appraised, and shall be paid by the company to the parties entitled to the same, or shall be deposited in the bank, as the court shall direct; and if the amount is diminished, the difference shall be refunded to the company by the party to whom the same may have been paid; and judgment therefor may be rendered by the court, on the filing of the second report, against the party liable to pay the same. Such appeal shall not affect the possession by such company of the land appraised; and when the same is made by others than the company, it shall not be heard, except on a stipulation of the party appealing not to disturb such possession.

20 B., 419.

Adverse
claims to
compensa-
tion, how
settled.

§ 19. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into the said court by the company, and may determine who is entitled to the same, and direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which such determination and order are to be made.

Protection
of unknown
parties.

Amending
proceed-
ings.

§ 20. The court shall appoint some competent attorney to appear for, and protect the rights of any party in interest who is unknown, or whose residence is unknown, and who has not appeared in the proceedings by an attorney or agent. The court shall also have power at any time to amend any defect or informality in any of the special proceedings authorized by this act, as may be necessary; or to cause new parties to be added, and to direct such further notices to be given, to any party in interest, as it deems proper; and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve, or be incapable of serving.

Proceed-
ings when
title is de-
fective.

§ 21. If, at any time after an attempt to acquire title by appraisal of damages or otherwise, it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect such title, in the same manner as if no appraisal had been made; and at any stage of such new proceedings, the court may authorize the corporation, if in possession, to continue in possession, and, if not in possession, to take possession, and use such real estate during the pendency and until the final conclusion of such new proceedings; and may stay all actions or proceedings against the company on account thereof, on such company paying into court a sufficient sum, or giving security as the court may direct, to pay the compensation therefor when finally ascertained; and in every such case, the party interested in such real estate may conduct the proceedings to a conclusion, if the company delays or omits to prosecute the same.

20 B., 419.

§ 22. Every company formed under this act, before constructing any part of their road into or through any county named in their articles of association, shall make a map and profile of the route intended to be adopted by such company in such county, which shall be certified by the president and engineer of the company, or a majority of the directors, and filed in the office of the clerk of the county in which the road is to be made. The company shall give written notice to all actual occupants of the land over which the route of the road is so designated, and which has not been purchased by or given to the company, of the route so designated. Any party feeling aggrieved by the proposed location, may, within fifteen days after receiving written notice as aforesaid, apply to a justice of the supreme court, out of court, by petition, duly verified, setting forth his objections to the route designated; and the said justice may, if he considers sufficient cause therefor to exist, appoint three disinterested persons, one of whom must be a practical engineer, commissioners to examine the proposed route, and, after hearing the parties, to affirm or alter the same, as may be consistent with the just rights of all parties and the public; but no alteration of the route shall be made, except by the concurrence of the commissioner who is a practical civil engineer. The determination of the commissioners shall, within thirty days after their appointment, be made and certified by them, and the certificate filed in the office of the county clerk. Said commissioners shall each be entitled to three dollars per day for their expenses and services, to be paid by the person who applied for their appointment; and if the proposed route of the road is altered or changed by the commissioners, the company shall refund to the applicant the amount so paid.

§ 23. The directors of every company formed under this act may, by a vote of two-thirds of their whole number, at any time alter or change the route or any part of the route of their road, if it shall appear to them that the line can be improved thereby; and they shall make and file in the clerk's office of the proper county, a survey, map and certificate of such alteration or change; and shall have the same right and power to acquire title to any lands required for the purposes of the company, in such altered or changed route, as if the road had been located there in the first instance; and no such alteration shall be made in any city or village, after the road shall have been constructed, unless the same is sanctioned by a vote of two-thirds of the common council of said city or trustees of said village; and in case of any alteration made in the route of any railroad after the company has commenced grading, compensation shall be made to all persons for injury so done to any lands that may have been donated to the company. All the provisions of this act relative to the first

CHAP. XVI.
Map of
road to be
made before
construction.

Where filed.
Must give
written notice of
proposed route
to occupants.
Objections
to route,
how made.

In what
manner
route may
be altered.

Certificate
to be filed
within thirty
days.

Commissioners,
how paid.

Change of
route by
company.

Map and
survey to be
filed.

Proviso.

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location, and to acquiring title to land, shall apply to every such new or altered portion of the route.

23 B., 22.

Crossings
and inter-
sections.

Additional
land for,
how taken.

§ 24. Whenever the track of a railroad constructed by a company formed under this act shall cross a railroad, a highway, turnpike or plank road, such highway, turnpike or plank road may be carried under or over the track, as may be found most expedient; and in cases where an embankment or cutting shall make a change in the line of such highway, turnpike or plank road desirable, with a view to a more easy ascent or descent, the said company may take such additional lands for the construction of such road, highway, turnpike or plank road on such new line as may be deemed requisite by the directors. Unless the lands so taken shall be purchased for the purposes aforesaid, compensation therefor shall be ascertained in the manner prescribed in this act for acquiring title to real estate, and duly made by said corporation to the owners and persons interested in such lands. The same, when so taken, shall become part of such intersecting highway, turnpike or plank road, in such manner and by such tenure as the adjacent parts of the same highway, turnpike or plank road may be held for highway purposes.

State land,
how ac-
quired by
company.

§ 25. The commissioners of the land office shall have power to grant to any railroad company formed under this act, any land belonging to the people of this state, which may be required for the purposes of their road, on such terms as may be agreed on by them; or such company may acquire title thereto by appraisal, as in the case of lands owned by individuals; and if any land belonging to a county or town is required by any company for the purposes of the road, the county or town officers having the charge of such land may grant such land to such company, for such compensation as may be agreed upon.

19 B., 487; 27 N. Y., 270.

Title, how
acquired
when trustee,
guardian or
committee
are not au-
thorized to
sell.

§ 26. In case any title or interest in real estate required by any company formed under this act, for the purpose of its incorporation, shall be vested in any trustee not authorized to sell, release and convey the same, or in any infant, idiot or person of unsound mind, the supreme court shall have power, by a summary proceeding on petition, to authorize and empower such trustee, or the general guardian or committee of such infant, idiot or person of unsound mind, to sell and convey the same to such company, for the purposes of its incorporation, on such terms as may be just; and in case any such infant, idiot or person of unsound mind, has no general guardian or committee, the said court may appoint a special guardian or committee for the purpose of making such sale, release or conveyance, and may require such security from such general or special guardian or committee as said court may deem proper. But before any conveyance or re-

lease authorised by this section shall be executed, the terms on which the same is to be executed shall be reported to the court, on oath; and if the court is satisfied that such terms are just to the party interested in such real estate, the court shall confirm the report, and direct the proper conveyance of release to be executed, which shall have the same effect as if executed by an owner of said land, having legal power to sell and convey the same. 47 B., 112.

§ 27. No company formed under this act shall lay down or use in the construction of their road, any iron rail of less weight than fifty-six pounds to the lineal yard, except for turnouts, sidings and switches and roads upon which steam power cannot by law be used; and on the last mentioned roads such weight shall not be less than forty pounds to the lineal yard.

Weight of rail.

As amended by Laws of 1862, ch. 449.

§ 28. Every corporation formed under this act, shall, in addition to the powers conferred on corporations in the third title of the eighteenth chapter of the first part of the Revised Statutes, have power,

Powers of company.

1. To cause such examination and surveys for its proposed railroad to be made, as may be necessary to the selection of the most advantageous route; and for such purpose, by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to responsibility for all damages which shall be done thereto.

To make preliminary surveys.

2. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad; but the real estate received by voluntary grant shall be held and used for the purposes of such grant only.

To take gifts of lands and other property.

3. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railroad, and the stations and other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing, or in any way affecting the act entitled "An act authorizing the construction of railroads upon Indian lands," passed May 12, 1836.

To purchase necessary real estate and other property.

4. To lay out its road not exceeding six rods in width, and to construct the same; and for the purposes of cuttings and embankments, to take as much more land as may be necessary for the proper construction and security of the road, and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in this act for lands taken for the use of the company.

Width of road.

Trees may be cut down.

5. To construct their road across, along, or upon any stream of water, water-course, street, highway, plank road, turnpike or canal, which the route of its road shall intersect or touch; but the company shall restore the stream or water-course, street, highway, plank road and turnpike thus intersected or

To enter upon roads, canals, &c.

PART I.

May not
bridge
navigable
streams
or lakes.

Nor take
city streets.

touched, to its former state, or to such state as not unnecessarily to have impaired its usefulness. Every company formed under this act, shall be subject to the power vested in the canal commissioners by the seventeenth section of chapter two hundred and seventy-six of the session laws of eighteen hundred and thirty-four. Nothing in this act contained shall be construed to authorize the erection of any bridge, or any other obstructions across, in or over any stream or lake navigated by steam or sail boats, at the place where any bridge or other obstructions may be proposed to be placed; nor to authorize the construction of any railroad not already located in, upon or across any streets in any city, without the assent of the corporation of such city; nor to authorize any such railroad company to construct its road upon and along any highway without the order of the supreme court of the judicial district in which said highway is situated, made at a special term of said court after at least ten days' notice, in writing, of the intention to make application for said order shall have been given to the commissioners of highways of the town in which said highway is situated.

As amended by Laws of 1864, ch. 582. Post, vol. 6, p. 367.

May cross
and unite
with other
roads.

Compensa-
tion, how
to be de-
termined.

May carry
persons and
property.

May erect
buildings
and ma-
chinery.

To regulate
time and
fare for
transporta-
tion.

To borrow
money.

6. To cross, interest, join and unite its railroad with any other railroad before constructed, at any point on its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connections. And every company whose railroad is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined by commissioners, to be appointed by the court as is provided in this act in respect to acquiring title to real estate.

7. To take and convey persons and property on their railroad by the power or force of steam or of animals, or by any mechanical power, and to receive compensation therefor.

8. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of their passengers, freights and business.

9. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor; but such compensation, for any passenger and his ordinary baggage, shall not exceed three cents per mile.

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purposes aforesaid; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon, into stock of said company, at any time not exceeding ten years from the date of the

bond, under such regulations as the directors may see fit to adopt.

30 B., 102; 27 B., 518; 23 B., 487; 20 B., 648; 19 B., 487; 18 B., 244; 17 B., 439; 34 N. Y., 407; 25 N. Y., 531; 47 B., 115.

§ 29. Whenever the railroad of any company formed under this act shall run parallel or nearly parallel to any canal of this state, and within thirty miles of such canal, the company owning such railroad shall pay to the canal fund, on all property transported upon its railroad other than the ordinary baggage of passengers, the same tolls upon that portion of the road running parallel to the canal, that would have been payable to the state if such property other than baggage had been transported on any such canal; and every such company shall make returns, at such times and in such manner as the commissioners of the canal fund shall prescribe, of all the property transported on its railroad, except ordinary baggage of passengers; and the said commissioners are authorized and required to prescribe the manner in which such tolls so payable to the canal fund by such company, shall be collected and paid, and to enforce the collection and payment thereof, and to make such regulations as they shall deem proper for that purpose; and every such company that shall neglect or refuse to comply with any such regulations, shall forfeit to the people of this state the sum of five hundred dollars for every day it shall so neglect or refuse; and in every case of such forfeiture, it shall be the duty of the attorney general to prosecute such company for the penalty, in the name of the people.

Canal tolls.

Returns,
how made.

Forfeiture.

How prosecuted.

§ 30. Every conductor, baggage master, engineer, brakeman, or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letters of the style of the corporation by which he is employed. No conductor or collector without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant, without such badge, shall have authority to meddle or interfere with any passenger, his baggage or property.

Conductor
and servants
to wear
badges.

30 B., 102.

§ 31. Every railroad corporation formed under this act, shall make an annual report to the state engineer and surveyor of the operations of the year ending on the thirtieth day of September; which report shall be verified by the oaths of the treasurer, or president, and acting superintendent of operations, and be filed in the office of the state engineer and surveyor by the first day of December in each year, and shall state:

Annual report to state engineer and surveyor.

1. The amount of capital as by charter;
2. The amount of stock subscribed;
3. The amount paid in as by last report;

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4. The total amount now of capital stock paid in ;
5. The funded debt by last report ;
6. The total amount now of funded debt ;
7. The floating debt as by last report ;
8. The amount now of floating debt ;
9. The total amount now of funded and floating debt ;
10. The average rate per annum of interest on funded debt.

Cost of road and equipment.

11. For graduation and masonry by last report ;
12. The total amount now expended for the same.
13. The amount for bridges by last report ;
14. The total amount now expended for the same.
15. The amount for superstructure, including iron, by last report ;
16. Total amount now expended for the same.
17. For passengers and freight stations, building and fixtures, by last report ;
18. The total amount now expended for the same.
19. For engine and car houses, machine shops, and machinery and fixtures, by last report ;
20. Total amount now expended for the same.
21. For land, land damages and fences, by last report ;
22. Total amount now expended for the same.
23. For locomotives and fixtures and snow plows, by last report ;
24. Total amount now expended for the same.
25. For passenger and baggage cars, by last report ;
26. Total amount now expended for the same.
27. For freight cars, as by last report ;
28. Total amount now expended for the same.
29. For engineering and agencies, by last report :
30. Total amount now expended for the same.
31. Total cost of road and equipment.

Characteristics of road.

32. Length of road ;
33. Length of road laid ;
34. Length of double track, including sidings ;
35. Length of branches owned by the company laid ;
36. Length of double track on the same.
37. Weight of rail by yard on main track.
38. The number of engine houses and shops ; of engines and cars, and their character.

Maps to be
filed with
state engi-
neer and
surveyor.

39. It shall also be the duty of each corporation to transmit to the state engineer and surveyor the following maps, profiles, and drawings exhibiting the characteristics of their roads the map to show the length and direction of each straight line, and the length and radius of each curve ; also the point of crossing of each town and county line, and the length of line in each town and county accurately determined by measurements to be taken after the completion of the road.

The profile to be on the map, and shall show the grade line and surface of ground in the usual method, also the elevation of grades above tides at each change in the inclination thereof. The maps and profile to be made on a scale of five hundred feet to one-tenth of a foot; vertical scale of profile to be one hundred feet to one-tenth of a foot. For all roads or parts of roads now done, or in operation, the said maps shall be returned on or before the first day of January next; and for all roads now in progress, or which may hereafter be constructed, the said maps and profiles shall be returned within three months after the same or any portion thereof shall be in use.

Maps of roads now done, or in operation, when to be filed.

Doings of the year in transportation, and total miles run.

40. Miles run by passenger trains;
41. Miles run by freight trains;
42. The rate of fare for passengers, charged for the respective classes per mile;
43. Number of passengers carried in cars;
44. Number of miles travelled by passengers;
45. Number of tons of two thousand pounds of freight carried in cars;
46. Number of miles carried, or total movement of freight in miles: all to be accurately compiled from the daily records or evidences of earnings, manifest and way bills.
47. Average rate of speed adopted by ordinary passenger trains, including stops;
48. Average rate of speed adopted by ordinary passenger trains when in motion.
49. Average rate of speed adopted by express trains, including stops;
50. Average rate of speed adopted by express trains when in motion.
51. Average rate of speed adopted by freight trains, including stops;
52. Average rate of speed adopted by freight trains when in motion.
53. Average weight in tons of two thousand pounds of passenger trains, exclusive of passengers and baggage;
54. Average weight in tons of freight trains, exclusive of freight.
55. The amount of freight, specifying the quantity in tons, of the products of the forest, of animals, of vegetable food, other agricultural products, manufactures, merchandise and other articles.

Expenses of maintaining the road or real estate of the corporation.

56. For repairs of road-bed and railway, excepting cost of iron, which shall be the cost of labor and materials used during the year; also use and cost of engines engaged in ballasting; also the renewal and repairs of gravel and stone

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cars, and all items of cost connected with keeping the road in order.

57. For depreciation of way ;
58. Length, in feet, of iron used in renewals, with weight and cost ;
59. Repairs of buildings ;
60. Repairs of fences and gates ;
61. Taxes on real estate ;
62. Total expenses of maintaining road or real estate for the year ;
63. Expenses of machinery or personal property of the corporation ;
64. Repairs of engines and tenders ;
65. Depreciation of engines and tenders ;
66. Repairs of passenger and baggage cars ;
67. Depreciation of passenger and baggage cars ;
68. Repairs of freight cars ;
69. Depreciation of freight cars ;
70. Repairs of tools and machinery in shops ;
71. Incidental expenses, including fuel, oil, clerks, watchmen about shops ;
72. Total expenses of repair of machinery ;
73. Office expenses, stationery ;
74. Agents and clerks ;
75. Labor handling freight, loading and unloading ;
76. Porters, watch and switchmen ;
77. Wood and water station attendance ;
78. Conductors, baggage and brakemen ;
79. Enginemen and firemen ;
80. Fuel (first cost, and labor preparing for use) ;
81. Oil and waste for engine and tenders ;
82. Oil and waste for freight cars ;
83. Oil and waste for baggage and passenger cars ,
84. Loss and damage of goods and baggage ;
85. Damages for injuries of persons ;
86. Damages to property, including damages by fire, cattle killed on road ;
87. General superintendence ;
88. Contingencies ;
89. Total expenses of operating road.
90. The above statements are to be made without reference to the sums actually received or paid during the year. The following statement of the earnings and cash receipts and payments are required :
 91. From passengers ;
 92. From freight ;
 93. From other sources.
 94. The above to be stated without reference to the amount actually collected.
 95. Receipts during the year from freight ;
 96. From passengers ;

97. From other sources, specifying what in detail.
98. Payments for transportation expenses.
99. For interest.
100. Dividends on stock, amount and rate per cent.
101. Payments to surplus fund, and total amount of said fund.
102. The number of persons injured in life and limb, and the cause of the injury, and whether passengers or persons employed.

Whether any such accidents have arisen from carelessness or negligence of any person in the employment of the corporation, and whether such person is retained in the service of the corporation.

103. It shall be the duty of the state engineer and surveyor to arrange the information contained in such reports in a tabular form, and prepare the same, together with the said reports, in a single document, for printing, for the use of the legislature, and report the same to the legislature on the first day of its session in each year.

State engineer to report annually to the legislature.

104. All the items under the heads of expenses of maintaining the road or real estate of the corporation, expenses of machinery or personal property of the corporation, expenses of use of road and machinery or operating the road, shall be carried out under two heads, the one showing the cost of freight transportation, the other the cost of passenger transportation.

105. The provisions of this section shall apply to all existing railroad corporations; and the report of the said existing railroad corporations, made in pursuance of the provisions of this section, shall be deemed to be a full compliance with any existing law or resolution requiring annual reports to be made by such corporation.

Existing corporations subject to the provisions of this section.

§ 32. Any such corporation which shall neglect to make the report as is provided in the preceding section, shall be liable to a penalty of two hundred and fifty dollars, to be sued for in the name of the people for their use.

Penalty for not making report.

§ 33. The legislature may, when any such railroad shall be opened for use, from time to time, alter or reduce the rate of freight, fare, or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce with said profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the state engineer and surveyor, and the comptroller, they shall ascertain that the net income derived by the company from all sources for the year then last past shall have exceeded an annual income of ten per cent upon the capital of the corporation actually expended.

Legislature may alter and reduce fare.

Proviso.

§ 34. Any such corporations shall, when applied to by the postmaster-general, convey the mails of the United States on their road or roads respectively; and in case such corporation

Mails.

PART I.

shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, it shall be lawful for the governor of this state to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less for carrying said mails in the regular passenger trains, than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the postmaster-general shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as aforesaid.

Passengers
refusing to
pay fare.

§ 35. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, or near any dwelling house, as the conductor shall elect, on stopping the train.

31 B., 558; 14 B., 590.

Arrange-
ment of ar-
rival and
departure.

§ 36. Every such corporation shall start and run their cars for the transportation of passengers and property, at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property, as shall within a reasonable time previous thereto be offered for transportation at the place of starting and the junctions of other railroads, and at usual stopping places established for receiving and discharging way passengers and freights for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor; and shall be liable to the party aggrieved, in an action for damages, for any neglect or refusal in the premises.

19 B., 49; 25 N. Y., 442.

Baggage ar-
rangement.
Checks to
be given.

§ 37. A check shall be affixed to every parcel of baggage, when taken for transportation by the agent or servant of such corporation, if there is a handle, loop or fixture, so that the same can be attached upon the parcel or baggage so offered for transportation, and a duplicate thereof given to the passenger or person delivering the same on his behalf; and if such check be refused on demand, the corporation shall pay to such passenger the sum of ten dollars, to be recovered in a civil action; and further no fare or toll shall be collected or received from such passenger, and if such passenger shall have paid his fare, the same shall be refunded by the conductor in charge of the train; and on producing said check, if

Penalty for
refusing
check.

his baggage shall not be delivered to him, he may himself be a witness in any suit brought by him, to prove the contents and value of said baggage.

30 B., 102.

§ 38. In forming a passenger train, baggage, freight, merchandise, or lumber cars shall not be placed in rear of the passenger cars; and if they or any of them shall be so placed, the officer or agent who so directed, or knowingly suffered such arrangement, and the conductor of the train, shall be deemed guilty of a misdemeanor, and be punished accordingly.

Passenger trains, how formed.

Penalty.

30 B., 102; 27 N. Y., 270.

[Section 39 repealed by Laws of 1854, ch. 282.] Post, p. 640.

§ 40. Every such corporation shall cause boards to be placed, well supported by posts or otherwise, and constantly maintained across each traveled public road or street where the same is crossed by the railroad, on the same level. Said boards shall be elevated so as not to obstruct the travel, and to be easily seen by travelers; and on each side of such boards shall be painted in capital letters, of at least the size of nine inches each, the words, "Railroad crossing, look out for the cars." But this section shall not apply to streets in cities or villages, unless the corporation shall be required to put up such boards by the officers having charge of such streets.

Road crossings, sign-boards at:

Size of inscription.

Proviso.

25 B., 199; 16 B., 317; 27 N. Y., 270.

§ 41. If any person shall, while in charge of a locomotive engine running upon the railroad of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

Punishment of intoxication.

30 B., 102.

§ 42. If any person or persons shall wilfully do, or cause to be done, any act or acts whatever, whereby any building, construction or work of any railroad corporation, or any engine, machine or structure, or any matter or thing appertaining to the same, shall be stopped, obstructed, impaired, weakened, injured or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the said corporation treble the amount of damages sustained by means of such offence.

Persons injuring railroad property, how punished.

30 B., 102.

§ 43. All penalties imposed by this act may be sued for in the name of the people of the state of New York; and if such penalty be for a sum not exceeding one hundred dollars, then such suit may be brought before a justice of the peace, and may be commenced by serving a summons on any director of such company.

Penalties, how sued for.

30 B., 102.

§ 44. Every corporation formed under this act, shall erect and maintain fences on the sides of their road, of the height and strength of a division fence required by law, with open-

Fencings.

PART I.

Penalty for driving animals upon railroads.

Unlawful to walk upon track.

ings or gates or bars therein, and farm crossings of the road for the use of the proprietors of lands adjoining such railroad; and also construct and maintain cattle-guards at all road crossings, suitable and sufficient to prevent cattle and animals from getting on to the railroad. Until such fences and cattle-guards shall be duly made, the corporation and its agents shall be liable for all damages which shall be done by their agents or engines, to cattle, horses, or other animals thereon; and after such fences and guards shall be duly made and maintained, the corporation shall not be liable for any such damages, unless negligently or wilfully done; and if any person shall ride, lead or drive any horse or other animal upon such road, and within such fences and guards, other than at farm crossings, without the consent of the corporation, he shall for every such offence forfeit a sum not exceeding ten dollars, and shall also pay all damages which shall be sustained thereby to the party aggrieved. It shall not be lawful for any person, other than those connected with or employed upon the railroad, to walk along the track or tracks of any railroad, except where the same shall be laid along public roads or streets.

13 N. Y., 45; 32 B., 572; 30 B., 102; 29 B., 648; 21 B., 498; 19 B., 364; 18 B., 354, 399, 583; 16 B., 317; 14 B., 364; 13 B., 390, 594; 2 Hill., 496; 35 N. Y., 641; 27 N. Y., 270.

§ 45. Every corporation shall, within a reasonable time after their road shall be constructed, cause to be made:

Maps to be filed with state engineer and surveyor.

And in county clerks' offices. Scale of maps.

A map and profile thereof, and of the land taken or obtained for the use thereof, and file the same in the office of the state engineer and surveyor; and also like maps of the parts thereof located in different counties, and file the same in the offices for recording deeds, in the county in which such parts of said road shall be. Every such map shall be drawn on a scale, and on paper, to be designated by the state engineer and surveyor, and certified and signed by the president or engineer of such corporation.

Duty of passengers.

§ 46. In case any passenger on any railroad shall be injured while on the platform of a car, or on any baggage, wood or freight car, in violation of the printed regulations of the company posted up at the time in a conspicuous place inside of its passenger cars then in the train, such company shall not be liable for the injury; provided, such company at the time furnished room inside its passenger cars sufficient for the proper accommodation of the passengers. 34 N. Y., 677.

Road, when to be commenced and finished.

§ 47. If any corporation formed under this act shall not, within five years after its articles of association are filed and recorded in the office of the secretary of state, begin the construction of its road, and expend thereon ten per cent on the amount of its capital, or shall not finish its road and put it in operation in seven years from the time of filing its articles of association as aforesaid, its corporate existence and powers shall cease. This extension shall apply to all corporations whose articles of association have been filed within five years before the passage of this act.

As amended by Laws of 1864, ch. 582. Post, vol. 6, p. 367.

CHAP. XVI.
Power of
legislature.

§ 48. The legislature may at any time annul or dissolve any incorporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporation, its stockholders or officers, for any liability which shall have been previously incurred.

§ 49. All existing railroad corporations within this state shall respectively have and possess all the powers and privileges contained in this act; and they shall be subject to all the duties, liabilities and provisions not inconsistent with the provisions of their charter, contained in sections nine, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, twenty-eight (except subdivision nine), thirty, thirty-one, thirty-two, thirty-three, thirty-four, thirty-five, thirty-six, thirty-seven, thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, of this act.

Existing
corpora-
tions to
what sec-
tions of this
law liable.

18 B., 354, 399.

§ 50. The act entitled "An act to authorize the formation of railroad corporations," passed March 26, 1848, and the acts amending the same, are hereby repealed; but all railroad companies formed under said act are hereby continued in existence, in the same manner as if said acts were not repealed; and such companies shall be subject to all the provisions, and shall have the same powers, rights and privileges, and be subject to the same duties as if they had been incorporated under this act; and the time limited by said act, for the expenditure of ten per cent of their capital stock, is hereby extended two years from the passage of this act; and the time limited in said section of said law for their completion, is hereby extended to five years from the passage of this act; and also the time for completing any railroad organized previous to March 27, 1848, whose road was under contract prior to February 1, 1850, to be completed within the time prescribed by its charter, is hereby extended for one year.

General re-
peal.

18 B., 354.

§ 51. Nothing in this act contained shall authorize or permit the New York and Erie Railroad Company to abandon the use of their road in the county of Rockland, east of Suffern's depot.

New York
and Erie
railroad.

See Laws of 1866, ch. 697. Post, vol. 6, p. 809.

CHAP. 19.

AN ACT in relation to railroad corporations.

PASSED February 13, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, companies.

Line com-
mon to two
companies.

PART I.
may be
built by one

Articles,
how amend-
ed.

they may by agreement provide for the construction of so much of said line, as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Upon the making of such agreement, the company that is not to construct the part of the line which is common to both, may alter and amend its articles of association so as to terminate its line at the point of intersection, and may reduce its capital to a sum not less than ten thousand dollars for each mile of the road proposed to be constructed in such amended articles of association.

17 B., 602.

Part of line
may be con-
structed in
another
state.

§ 2. Whenever, after due examination, it shall be ascertained by the directors of any railroad company, organized under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed March 26th, 1848, or under the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2d, 1850, that a part of the line of their railroad proposed to be made between any two points in this state, ought to be located and constructed in an adjoining state, it may be so located and constructed by a vote of two-thirds of all the directors, and the sections of said railroad within this state, shall be deemed a connected line, according to the articles of association, and the directors may reduce the capital specified in their articles of association to such amount as may be deemed proper, but not less than the amount required by law for the number of miles of railroad to be actually constructed in this state.

When ap-
praisers
may be ap-
pointed.

§ 3. Any railroad company which, prior to the passage of this act, has been duly formed under the act entitled "An act to authorize the formation of railroad corporations," passed March 27, 1848, or "An act to authorize the formation of railroad corporations and regulate the same," passed April 2d, 1850, and which is duly continued in existence, when at least ten thousand dollars for every mile of its railroad, proposed to be constructed in this state, shall be in good faith subscribed to its capital stock, and ten per cent, thereof paid in, may apply to the court for the appointment of commissioners, and all subsequent proceedings may be had to obtain the title to lands necessary for its construction, to the same extent and in the same manner as if the whole amount of the capital stock specified in its articles of association was in like manner subscribed.

As amended by Laws of 1853, ch. 53.
16 B., 100.

Damages
for crossing
turnpike or
plankroad.

§ 4. In case any railroad shall occupy or cross any turnpike or plank road, the railroad company shall pay such turnpike or plank road company all damages the turnpike or plank road company may sustain by reason of the occupancy or crossing such turnpike or plank road, the damages to be ascertained

and paid in the same manner as is provided by law for the assessment and payment of damages in case of taking private property for the use of railroad companies.

CHAP. 497.

AN ACT to abolish tolls on railroads.

PASSED July 10, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall not be necessary for any railroad company in this state to pay any sums of money into the treasury of this state, on account of the transportation of property on any railroad on and after the first day of December, in the year eighteen hundred and fifty-one. No tolls required.

§ 2. It shall not be necessary after the said first day of December next, for any railroad company to make to the comptroller, monthly statements of the property carried on its railroad. Statements dispensed with.

§ 3. All acts and parts of acts requiring the payment of state tolls by any railroad company, for the transportation of property on any railroad are, after the said first day of December next, so far as they conflict with this act, hereby repealed. Repeal.

CHAP. 140.

AN ACT relative to the construction of railroads in cities.

PASSED April 4, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The common councils of the several cities of this state shall not, hereafter, permit to be constructed in either of the streets or avenues of said city a railroad for the transportation of passengers, which commences and ends in said city, without the consent thereto of a majority in interest of the owners of property upon the streets in which said railroad is to be constructed being first had and obtained. For the purpose of determining what constitutes said majority in interest, reference shall be had to the assessed value of the whole located upon such street or avenue. Common councils not to permit.

14 N. Y., 520.

§ 2. After such consent is obtained, it shall be lawful for the common council of the city in which such street or avenue is located to grant authority to construct and establish such railroad, upon such terms, conditions and stipulations, in rela-

Without consent of property owners.

PART I.

To whom
grants to be
made.

tion thereto, as such common council may see fit to prescribe. But no such grants shall be made, except to such person or persons as shall give adequate security to comply in all respects with the terms, conditions and stipulations so to be prescribed by such common council, and will agree to carry and convey passengers upon such railroad at the lowest rates of fare. Nor shall such grants be made until after public notices of intention to make the same, and of the terms, conditions and stipulations upon which it will be given, and inviting proposals therefor at a specified time and place, shall be published under the direction of the common council in one or more of the principal newspapers published in the city in which said railroad is proposed to be authorized and constructed. 35 B, 380.

Not to extend to roads already begun.

§ 3. This act shall not be held to prevent the construction, extension or use of any railroad, in any of the cities of this state, which have already been constructed in part; but the respective parties and companies, by whom such roads have been in part constructed, and their assigns, are hereby authorized to construct, complete, extend and use such roads, in and through the streets and avenues designated in the respective grants, licenses, resolutions or contracts under which the same have been so in part constructed, and to that end the grants, licenses and resolutions aforesaid are hereby confirmed.

CHAP. 282.

AN ACT to amend the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

PASSED April 15, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The fifth section of the said act is hereby amended, so as to read as follows:

Directors and their election.

§ 5. There shall be a board of thirteen directors of every corporation formed under this act to manage its affairs; and said directors shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the election of directors, each stockholder shall be entitled to one vote, personally or by proxy, on every share held by him thirty days previous to any such election; and vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. The inspectors of the first election of directors shall be appointed by the board of directors named in

the articles of association. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen ; and at every election of directors, the books and papers of such company shall be exhibited to the meeting, if a majority of the stockholders present shall require it. And whenever the purchaser or purchasers of the real estate, track and fixtures of any railroad corporation which has heretofore been sold, or may be hereafter sold, by virtue of any mortgage executed by such corporation, or execution issued upon any judgment or decree of any court, shall acquire title to the same in the manner prescribed by law, such purchaser or purchasers may associate with him and them any number of persons, and make and acknowledge and file articles of association, as prescribed by this act, such purchaser or purchasers and their associates shall thereupon be a corporation, with all the powers, privileges and franchises, and be subject to all the provisions of said act. Ante, p. 619.

Purchasers
of road.

§ 2. The fifteenth section of the act aforesaid is hereby amended, and shall read as follows:

§ 15. On presenting such petition to the supreme court as aforesaid, with proof of service of a copy thereof and notice as aforesaid, all or any of the persons whose estates or interests are to be affected by the proceedings may show cause against granting the prayer of the petition, and may disprove any of the facts alleged in it. The court shall hear the proofs and allegations of the parties, and if no sufficient cause is shown against granting the prayer of the petition, it shall make an order for the appointment of three disinterested and competent freeholders, who reside in the county or some adjoining county where the premises to be appraised are situated, commissioners to ascertain and appraise the compensation to be made to the owners or persons interested in the real estate proposed to be taken in such county for the purposes of the company and to fix the time and place for the first meeting of the commissioners.

Appraisal
of damages.

16 B., 100, 273. Ante, p. 623.

§ 3. The sixteenth section of said act is hereby amended to read as follows:

§ 16. The commissioners shall take and subscribe the oath prescribed by the twelfth article of the constitution. Any one of them may issue subpoenas and administer oaths to witnesses; a majority of them may adjourn the proceedings before them, from time to time, in their discretion. Whenever they meet, except by the appointment of the court or pursuant to adjournment, they shall cause reasonable notice of such meetings to be given to the parties interested, or their agent or attorney. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing, and after the testimony in each case is closed, they

Hearing
before com-
missioners.

PART I.

or a majority of them, all being present, shall, without any unnecessary delay, and before proceeding to the examination of any other claim, ascertain and determine the compensation which ought justly to be made by the company to the owners or persons interested in the real estate appraised by them; and in fixing the amount of such compensation, said commissioners shall not make any allowance or deduction on account of any real or supposed benefits which the parties interested may derive from the construction of the proposed railroad, or the construction of the proposed improvement connected with such road, for which such real estate may be taken. They, or a majority of them, shall also determine what sum ought to be paid to the general or special guardian or committee of an infant, idiot, or person of unsound mind, or to an attorney appointed by the court to attend to the interests of any unknown owner or party in interest, not personally served with notice of the proceedings, and who has not appeared for costs, expenses and counsel fees. The said commissioners shall make a report of their proceedings to the supreme court, with the minutes of the testimony taken by them, if any; and they shall each be entitled to five dollars for services and expenses for every day they are actually engaged in the performance of their duties, to be paid by the company; except where the owners or persons interested in the real estate fail to have awarded them more than the amount of compensation offered them by the company before the appointment of commissioners, then to be paid by the said owners or persons interested, or if not paid by them to be paid by the company and deducted from the amount awarded.

As amended by Laws of 1864, ch. 582. Post, vol. 6, p. 368. Ante, p. 623.

Right of
way, how
acquired.

§ 4. In case any railroad company, the line or route of whose road has been surveyed and designated, and the certificate thereof duly filed as required by law, is unable to agree for the purchase of any real estate required for its roadway, the said corporation shall have the right to acquire title to the same by the special proceedings prescribed in the act hereby amended; and all real estate acquired by any railroad corporation, under and pursuant to the provisions of this act, for the objects and purposes herein expressed, shall be deemed to be acquired for public use. But this section shall not be so construed as to apply to any real estate in the city of Buffalo, situate between Main and Michigan streets.

Courts em-
powered to
carry pro-
ceedings
into effect.

§ 5. In all cases of appraisal under this act and the act hereby amended, where the mode or manner of conducting all or any of the proceedings to the appraisal and the proceedings consequent thereon are not expressly provided for by the statute, the courts before whom such proceedings may be pending shall have the power to make all the necessary orders and give the proper directions to carry into effect the object and intent of this and the aforesaid act; and the practice in such cases shall conform as near as may be to the ordinary practice in such courts. 25 B., 293.

Appraisal
not affected
by transfer
of property.

§ 6. When any proceedings of appraisal shall have been commenced, no change of ownership by voluntary conveyance or transfer of the real estate or any interest therein, or of the subject matter of the appraisal, shall in any manner

affect such proceedings, but the same may be carried on and perfected, as if no such conveyance or transfer had been made or attempted to be made.

§ 7. A bell shall be placed on each locomotive engine run on any railroad, and rung at the distance of at least eighty rods from the place where the railroad shall cross any traveled public road or street on the same level with the railroad, and be kept ringing until it shall have crossed such road or street, or a steam whistle shall be attached to each locomotive engine and be sounded at least eighty rods from the place where the railroad shall cross any such traveled public road or street upon the same level with the railroad, except in cities, and be sounded at intervals until it shall have crossed such road or street, and every neglect to comply with the foregoing provisions shall subject the corporation owning the railroad to a fine not exceeding twenty dollars, in the discretion of the court having cognizance of the offence; and every engineer having charge of the engine, for every neglect to comply with the requirements aforesaid, shall be fined not exceeding fifty dollars, or imprisoned in the county jail not exceeding sixty days, in the discretion of the court before which any indictment may be tried; and the said corporation shall, moreover, be liable for all damages which shall be sustained by any person by reason of such neglect.

Ring-
ing of
bells at
cross roads.

All the penalties hereinbefore mentioned may be sued for in the name of the people of the State of New York, by the district attorney of the county wherein the same shall accrue, within ten days thereafter; and in case such district attorney shall omit or neglect to sue for such fine or fines within the time aforesaid, then it may and shall be lawful for any person aggrieved to sue therefor in the name of the overseers of the poor of the town wherein any such fine or fines shall have accrued, which, when recovered, shall be paid to the said overseers of the poor, for the benefit of the poor of said town. And in case such persons shall fail to make out and maintain any such action, it shall be the duty of the court before whom any such action shall be had to enter a judgment against the complainant for the costs of said action.

28 B., 284; 35 N. Y., 49; 34 N. Y., 626.

§ 8. Every railroad corporation, whose line of road is open for use, shall, within three months after the passage of this act, and every railroad company formed or to be formed, but whose lines are not now open for use, shall, before the lines of such railroad are opened, erect and thereafter maintain fences on the sides of their roads of the height and strength of a division fence, as required by law, with openings or gates or bars therein at the farm crossings of such railroad, for the use of the proprietors of the lands adjoining such railroads, and shall also construct, where the same has not already been done, and hereafter maintain, cattle guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep

Fencing
road.

PART I.

and hogs from getting on to such railroad. And so long as such fences and cattle guards shall not be made, and when not in good repair, such railroad corporation and its agents shall be liable for damages which shall be done by the agents or engines of any such corporation to any cattle, horses, sheep or hogs thereon; and when such fences and guards shall have been duly made, and shall be kept in good repair, such railroad corporation shall not be liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence, within the provisions of this section; but no railroad corporation shall be required to fence the sides of its roads, except when such fence is necessary to prevent horses, cattle, sheep and hogs from getting on to the track of the railroad from the lands adjoining the same.

35 N. Y., 641; 34 N. Y., 408, 427; 39 B., 298.

Owner of
land, when
to build.

§ 9. But it shall be the duty of every owner of land adjoining any railroad, who has received, or whose grantor has received, a specific sum as compensation for fencing along the line of land taken for the purpose of said railroad, and has agreed to build and maintain a lawful fence on the line of said road, to build and maintain such fence; and if said owner, his heir or assign, shall not build said fence within thirty days after he has been notified so to do by the said railroad corporation, or shall neglect to maintain said fences, if built, said corporations shall build and thereafter maintain such fence, and may maintain a civil action against the person so neglecting to build or maintain said fence, to recover the expense thereof.

19 Ab., 231.

Unclaimed
freight.

§ 10. Every railroad company which shall have had unclaimed freight, not perishable, in its possession for a period of one year at least, may proceed to sell the same at public auction, and out of the proceeds may retain the charges of transportation and storage of such freight, and the expenses of advertising and sale thereof; but no such sale shall be made until the expiration of four weeks from the first publication of notice of such sale in the state paper, and also in a newspaper published at or nearest the place at which such freight was directed to be left, and also at the place where such sale is to take place; and said notice shall contain a description of such freight, the place at which and the time when the same was left, as near as may be, together with the name of the owner or person to whom consigned, if known; and the expenses incurred for advertising shall be a lien upon such freight, in a ratable proportion, according to the value of each article or package or parcel, if more than one.

Perishable
freight.

§ 11. In case such unclaimed freight shall, in its nature, be perishable, then the same may be sold as soon as it can be, on giving the notice required in the preceding section, after its receipt at the place where it was directed to be left.

Proceeds of
sale.

§ 12. Such railroad company shall make an entry of the balance of the proceeds of the sale, if any, of each parcel

of freight owned by or consigned to the same person, as near as can be ascertained, and at any time within five years thereafter shall refund any surplus so retained to the owner of such freight, his heirs or assigns, on satisfactory proof of such ownership.

§ 13. Whenever two railroad companies shall, for a portion of their respective lines, embrace the same location of line, or whenever, by the connection of two or more railroads, the same points of termination are reached by railroad communication, any two such railroads may, by agreement, provide for the construction of so much of said line as is common to both of them by one of the companies, and for the manner and terms upon which the business thereon shall be performed. Any road so connecting may alter and amend its articles of association, so as to terminate at the point of intersection, and may reduce its capital to a sum not less than ten thousand dollars for each mile of the road constructed, or proposed to be constructed in such amended articles of association. This section shall not be so construed as to apply to any railroad company or companies, so far as its or their line of road or roads are within the bounds of any incorporated city of this state.

Lines common to two roads, how constructed

§ 14. Every railroad corporation in this state shall, within thirty days after this act shall take effect, designate some person, residing in each of the counties through or into which such railroad may run, on whom process to be issued by a justice of the peace may be served, and shall file such designation in the office of the clerk of the county where the person so designated shall reside, and a copy of such designation duly certified by such clerk shall be evidence of such appointment, and the service of any process upon the person so designated or named, to be issued by any justice of the peace in any civil action or matter of which such justice may have jurisdiction, shall be as valid and effectual as if served upon the president or any director of any such corporation, as now provided by law.

Person on whom process may be served.

24 B., 417.

§ 15. In all cases where such designation shall not be made as aforesaid, and where no officer of such corporation shall reside in the county on whom process can be served according to the existing provisions of law, the process mentioned in the next preceding section may be served on any local superintendent of repairs, freight agent, agent to sell tickets, or station keeper of such corporation, residing in such county, which service shall be as effectual in all respects, as if made on the president or any director of such corporation.

Service on agents and servants.

24 B., 417.

§ 16. The tenth section of the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, is hereby amended to read as follows:

PART I.
Liability of
stockhold-
ers.

§ 10. Each stockholder of any company formed under this act shall be individually liable to the creditors of such company, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such company, until the whole amount of the capital stock so held by him shall have been paid to the company, and all the stockholders of any such company shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services for thirty days' service performed for such company, but shall not be liable to an action therefor before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such executions shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' services, he shall give him notice in writing, within twenty days after the performance of such service, that he intends so to hold him liable, and shall commence such action therefor within thirty days after the return of such execution, unsatisfied, as above mentioned; and every such stockholder, against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold with himself; and all laws whereby the stockholders, officers and agents of any railroad corporation are made individually liable for the debts or liabilities of such corporation beyond the provisions contained in the act entitled "An act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, and the acts amending the same, are hereby repealed.

24 N. Y., 482; 26 B., 143; 24 B., 87; 13 B., 169. Ante, p. 620.

Where
track cross-
es canals

§ 17. The directors of any railroad company whose track crosses any of the canals of this state, and the present grade thereof shall be raised in consequence of directions given by the canal commissioners, may, with the assent of the said canal commissioners, lay out a new line of road for the purpose of crossing such canal on a more favorable grade, and may extend such new line and connect the same with any other line of road owned by the same company, and a survey map and certificate of such new or altered line shall be made and filed in the clerk's office of the proper county; and such company shall have the same right and power to acquire title to any lands required for the purposes of such company, under the provisions of this section as it would have in the location of a line of road in the first instance; and all the provisions of the act hereby amended, relative to acquiring title to lands for railroad purposes, shall apply to such new or altered line; and all lands acquired by any railroad company by appraisal, for passenger and freight depots, shall be held by such company in fee; but no new line or route of road can

be laid out and established, as contemplated in this section, in any city or village, unless the same be sanctioned by a vote of two-thirds of the common council of said city, or trustees of said village, nor shall any railroad company be compelled to abandon any existing line of road in consequence of establishing such new line of road.

§ 18. Section thirty-nine of the act hereby amended is repealed, but this repeal shall not affect any action or proceeding heretofore commenced under said section.

CHAP. 302.

AN ACT in relation to railroads held under lease.

PASSED April 12, 1855; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Any railroad corporation created by the laws of this state, or its successors, now being the lessee of the road of any other railroad corporation, may take, surrender, or transfer of the capital stock of the stockholders, or any of them, in the corporation whose road is held under lease, and issue in exchange therefor, the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations: and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer shall thereafter on a resolution electing so to do, to be entered on their minutes, become, ex officio, the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof as provided by law; and whenever the whole of the said capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the secretary of state, under the common seal of the corporation to whom such surrender or transfer shall have been made; the estate, property, rights, privileges and franchises of the said corporation, whose stock shall have been so surrendered or transferred, shall thereupon vest in, and be held and enjoyed by the said corporation to whom such surrender or transfer shall have been made, as fully and entirely, and without charge or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the said corporation to whom such surrender or transfer of the said stock shall have been made, and in the corporate name of such corporation. The rights of any stockholder not so surrendering or transferring his stock, shall not be in any way affected hereby; nor shall existing liabilities, or the rights of creditors of the corporation, whose stock shall have been so surrendered, be in any way affected or impaired by this act:

Lessee may create and transfer stock.

PART I.
Not to ap-
ply to cer-
tain road.

§ 2. This act shall not be so construed as applying to or embracing the Rochester and Genesee valley railroad, nor any part thereof, and said road is hereby expressly excepted from the operation of the same.

CHAP. 478.

AN ACT authorising a change of the grade of railroads in certain cases.

PASSED April 14, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Grade
where
crossing a
canal.

§ 1. Whenever the grade of any railroad shall be changed under the direction of the canal commissioners, at any point where such road crosses or shall cross any canal, or canal feeder, except in the city of Buffalo, it shall be lawful for the directors of the company owning such railroads to alter the grade of such road on each or either side of the place where such change shall have been so made by order of the canal commissioners, for such distance and in such manner as the said directors may deem necessary. And the directors of any railroad company shall also be authorised at any time to change the grade of any part of their road except in the city of Buffalo, in such manner as they may deem necessary to avoid accidents and to facilitate the use of such road; any and all damages arising from such alteration to be appraised in same manner as provided in the act entitled "An act to authorise the formation of railroad corporations, and to regulate the same," and in the several acts amendatory thereof.

CHAP. 499.

AN ACT in relation to the stealing and forging of railroad tickets.

PASSED April 14, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Stealing
tickets &
larceny.

§ 1. Every person who shall be convicted of stealing, taking and carrying away any railroad passenger ticket or tickets, prepared for sale to passengers, previous to or after the sale thereof, being the personal property of any railroad company, or of any other corporation or corporations, or of any person or persons, shall be adjudged guilty of grand or petit larceny, as prescribed in the next following section.

When
grand lar-
ceny.

§ 2. If the price or prices authorised to be charged for such ticket or tickets, on a sale thereof, shall exceed the sum of twenty-five dollars, such price or prices shall be deemed the

value of such ticket or tickets, and the offence of stealing, taking and carrying away the same, shall be adjudged grand larceny, and the person convicted of the same shall be imprisoned in a state prison for a term not exceeding five years; but if such price or prices shall only amount to twenty-five dollars or under, the offence of stealing, taking and carrying away such ticket or tickets, shall be adjudged guilty of petit larceny, and the person convicted of the same shall be punished by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one hundred dollars, or by both such fine and imprisonment.

When petit larceny.

§ 3. Railroad passenger tickets of any railroad company, as well before the same shall have been issued to its receivers or other agents for sale, as after, and whether endorsed by such receivers or other agents or not, are to be deemed railroad tickets within the meaning of this act.

Definition of ticket.

§ 4. Every person who shall be convicted of having forged, counterfeited, or falsely altered any railroad ticket mentioned or referred to in either of the preceding sections of this act, or of having sold, exchanged or delivered for any consideration, any such forged or counterfeited railroad ticket, knowing the same to be forged or counterfeited, with intent to injure or defraud, or of having offered any such forged or counterfeited railroad ticket for sale, exchange or delivery, for any consideration, with the like knowledge and intent, or of having received any such forged or counterfeited railroad ticket upon a sale, exchange or delivery, for any consideration, with the like knowledge and intent, shall be adjudged guilty of forgery in the third degree, and shall be punished in like manner as is prescribed by law in cases of conviction of forgery in the third degree.

Forged tickets.

§ 5. Every person who shall have in his possession any such forged or counterfeited railroad ticket, as mentioned or referred to in the next preceding section, knowing the same to be forged, counterfeited or falsely altered, with intention to injure or defraud by uttering the same as true or false, or by causing the same to be uttered, or by the use of the same to procure a passage in the cars of the railroad company by which such ticket purports to have been issued, shall be subject to the punishment provided by law for forgery in the fourth degree.

Having forged tickets in possession.

CHAP. 185.

AN ACT to prevent extortion by railroad companies.

PASSED March 27, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any railroad company which shall ask and receive a greater rate of fare than that allowed by law, shall

Penalty for taking excess of fare.

PART I.

forfeit fifty dollars, which sum may be recovered, together with the excess so received, by the party paying the same, but it shall be lawful, and not construed as extortion, for any railroad company to take the legal rate of fare for one mile, for any fractional distance less than a mile.

30 N. Y., 505; 26 N. Y., 523.

CHAP. 444.

AN ACT further to amend the act entitled, "An act to authorise the formation of Railroad Corporations and to regulate the same," passed April second, eighteen hundred and fifty.

PASSED April 14, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Mortgage
sales.

§ 1. It shall be lawful for any mortgagee of any railroad and the franchises thereof, to become the purchaser of the same, at any sale thereof under the mortgage, upon foreclosure by advertisement, or under a judgment, or decree, or otherwise, and to hold, and convey the same, with all the rights and privileges, belonging thereto or connected therewith.

25 B., 293.

Special es-
tates, how
acquired.

§ 2. Whenever there shall be one or more of the estates enumerated in article one of title two of chapter one of the second part of the Revised Statutes entitled, "Of the creation and division of estates," in any land required by any railroad company for the purpose of its incorporation, such company may acquire such estate and land by means of the special proceedings authorised by the act hereby amended. In every such case the railroad company, in addition to the statements now required by said act, shall set forth and state in its petition, the facts in relation to any such estate, and the person, persons or class of persons, then in being or not in being, who are or who may become entitled in any contingency, to any estate as aforesaid, in such land and may pray that such estate may be acquired, and such persons may be bound by the said proceedings; and thereupon the court to whom such petition is presented, if there be no attorney appearing in their behalf, shall appoint some competent and disinterested attorney or officer of the court, to appear in such proceedings and represent the rights, interests and estate of the person, persons, or class of persons aforesaid in any such land, and to protect the same, on the appraisal and proceedings aforesaid; and it shall be the duty of the court, on or after the confirmation of the report of the appraisal, to ascertain by such report, or by a reference for that purpose, or otherwise, in its discretion, the rights, interest and estate of such person, persons or class of persons, in the

and so appraised, and in the compensation awarded therefor, and to make an order determining the amount or share of such compensation to which such person, persons or class of persons are, or may become entitled on account of such estate, as the same shall arise or become vested in them respectively, and to direct, and to provide for the payment, investment or securing thereof, for the benefit of the person, persons or class of persons aforesaid, who are, or who may in the contingency upon which such estate arises, become entitled thereto; upon the company paying or securing such amount or share, in the manner directed by such order of the court, it shall be deemed to have acquired, and shall be vested with the estate which such person, persons or class of persons have, or may be entitled to in said land, and they shall be freed of and from all right or claim in and to such land. Any railroad corporation in this state may acquire the title in any land which it may require for roadway and for necessary buildings, depots and freight grounds.

§ 3. Every railroad company which shall have had unclaimed freight or baggage not perishable, in its possession for the period of at least one year, may proceed and sell the same at public auction, after giving notice to that effect in the state paper once a week for not less than four weeks, and for a like period in a newspaper other than the state paper, published at a place designated for the sale, and also in one published in the city of New York, (said notice shall contain as near practicable a description of such freight or baggage, the place and time when left, together with the name of the owner of the freight, or person to whom consigned, if the same be known.) All moneys arising from the sale of freight or baggage as aforesaid, after deducting therefrom charges and expenses for transportation, storage, advertising, commissions for selling the property, and the amount previously paid for the loss or non-delivery of freight or baggage, shall be deposited by the company making such sale, accompanied with a report thereof, and proofs of advertisement, with the comptroller, for the benefit of the general fund of the state, and shall be held by him in trust for reclamation by persons entitled, or who may become entitled to receive the same. No sale as herein provided shall be valid unless a copy of the notice above specified, shall be served upon the comptroller for at least two weeks prior to the time designated for such sale.

Unclaimed
freight or
baggage.

4. In case such unclaimed freight or baggage shall, in its nature be perishable, then the same may be sold as soon as it can be, at the best terms that can be obtained.

CHAP. 470.

AN ACT to prevent Frauds in the sale of tickets to Passengers upon Railroads, Steamboats and Steamships.

PASSED April 15, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Sale of
tickets re-
gulated.

§ 1. No person other than the agents or employees of railroad, steamboat, or steamship companies of this state, duly appointed by them for that purpose, by a proper authority in writing, shall offer for sale or sell within this state, any ticket or tickets, or any printed or written instrument issued by, or purporting to have been issued by any railroad, steamboat or steamship company in this state or elsewhere, for the transportation of any passenger or passengers, upon any such railroad, steamboat or steamship, or any instrument wholly or partly printed or written, delivered for the purpose or upon the pretence of the procurement to such passenger or passengers, of any such ticket or tickets, or in any other manner, charge, take or receive any money as a consideration or price for such passage, or for the procurement of such passage ticket or tickets ; and no ticket or tickets or other evidence as aforesaid, shall be sold or offered for sale by the said agents or employees, except at the offices designated for that purpose by the said companies respectively, and at prices not exceeding their regular established rates.

Evidence
of violation
of act.

§ 2. Whenever any person or persons shall be complained of and arrested for violating any of the provisions of the first section of this act, it shall be the duty of the magistrate before whom such complaint is made, to take and reduce to writing, in the presence of the person or persons complained of, the evidence of any witness which may be offered, either on behalf of the prosecution or the party accused, and the depositions so taken shall be respectively subscribed by the witnesses making the same, and certified by the magistrate, and when so taken and certified, the said depositions shall be filed in the office of the clerk of the county in which the same shall be taken. Upon the trial of any person or persons charged with any offence under the provisions of this act, the testimony taken as aforesaid may be read by either party, with the like effect as if the said witness or witnesses were sworn in open court upon said trial ; provided it shall appear therein that the witness or witnesses were, at the time of taking the same residents of another state, territory or province, or are immigrating from a foreign country, or are residents of this state, and on their way to some other state, territory or province.

Penalty.

§ 3. Any person violating the provisions of this act, shall

upon conviction be deemed guilty of a misdemeanor, and be punished by a fine of not less than one hundred dollars, or by imprisonment of not less than three months, or by both such fine and imprisonment.

CHAP. 633.

AN ACT to repeal the act entitled "An act to establish a board of Railroad Commissioners, and define their powers and duties," passed April fourteenth, eighteen hundred and fifty-five, and to authorize the appointment of a deputy by the State Engineer and Surveyor.

PASSED April 16, 1857; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The act entitled "An act to establish a board of railroad commissioners and to define their powers and duties," passed April fourteenth, eighteen hundred and fifty-five, is hereby repealed. Nothing in this bill contained shall exempt the various railroad corporations from the liabilities and expenses heretofore incurred in the execution of the duties pertaining to the office of railroad commissioners, but the comptroller shall levy and collect the same in the manner prescribed by statute for the payment of such expenses.

Act re-
pealed.

§ 2. It shall be the duty of the railroad commissioner appointed by the governor and senate, under the provisions of the act aforesaid to prepare for publication the annual report required by said act for the fiscal year ending September thirtieth, eighteen hundred and fifty-six, and to superintend the printing of the same.

Final report
of commis-
sioner.

When the said report shall be printed it shall be the duty of the said commissioner to transfer to the office of the state engineer and surveyor all the property, maps and papers now belonging to or on file in the office of the board of railroad commissioners. The said commissioner shall receive for his services in preparing and superintending the printing of said report, the compensation fixed in the act hereby repealed; but the whole amount to be paid therefor shall not exceed one quarter of the yearly salary and traveling expenses as therein specified. The said commissioner may also employ the requisite number of clerks to make up the tabulations and deductions required by law for said annual report, and the amount to be paid to the clerks thus employed shall not exceed in the aggregate the sum of seven hundred dollars. The compensation of the commissioner and clerks as aforesaid shall be paid in the same manner as is now provided in chapter five hundred and twenty-six of laws of eighteen hundred and fifty-five.

Transfer
of office.

PART L
Deputy
state engi-
neer.

§ 3. The state engineer and surveyor is hereby authorized to appoint a deputy, who may perform any of the duties of state engineer and surveyor, except as commissioner, trustee, or member of any board, and who shall receive for his services a salary at the rate of two thousand dollars per annum.

CHAP. 125.

AN ACT in relation to Sleeping Cars on Railroads.

PASSED April 7, 1858.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Extra fare
may be
charged.

§ 1. Any patentee of a sleeping car, or his legal representative, may place his car upon any railroad of this state, with the assent of the company owning such road. Such patentee, or his legal representative, may charge for the use of said car, in all cases, to each passenger occupying the same, forty cents, which sum shall entitle such passenger to the use of a berth for one hundred miles; and the said patentee, or his legal representative, may charge at and after the rate of three mills for every additional mile, but in no case shall the charge exceed eighty cents.

Other cars
to be pro-
vided.

§ 2. The railroad companies permitting the use of such cars, shall nevertheless, keep sufficient first class cars of other kinds, for the convenient use and occupation of all passengers not wishing to use a sleeping car. And the tickets issued for the use of the sleeping cars, shall have plainly written or printed thereon, "sleeping car," and all persons using a sleeping car shall be furnished with such tickets.

Railroad
not to be
interested.

§ 3. No railroad corporation shall be interested in the additional sum paid for the use of berths in sleeping cars pursuant to the provisions of this act.

But to be
liable for
injuries.

§ 4. Nothing in this act contained shall be so construed as to exonerate any railroad company from the payment of damages for injuries, in the same way and to the same extent they would be required to do by law, if such cars were owned and provided by the company.

§ 5. The legislature may alter, amend or repeal this act.

CHAPTER XVII.

Trade.

CHAP. 261.

AN ACT relative to the inspection of flour and meal.

PASSED April 29, 1833.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The names of the manufacturers of flour and meal, required by the fifth section of the first article of the first title of the seventeenth chapter the first part of the Revised Statutes, to be branded on every cask containing such flour and meal, may be painted on such casks. Names may be painted. Ante, Vol. 1, p. 498.

CHAP. 475.

AN ACT for the prevention of frauds in the sale of oils.

PASSED May 25, 1836.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All oils under the name of sperm, lamp, summer, fall and winter oils, shall be deemed to be sold as and for pure sperm oil. Pure sperm oil.

§ 2. The specific gravity of pure sperm oil at the temperature of sixty degrees, according to Fahrenheit's thermometer, is declared to be the same with that of domestic distilled spirits of forty-eight per cent above first proof; and the specific gravity of whale oil to be the same at the temperature aforesaid, with that of domestic distilled spirits of eight per cent above first proof, according to the standard of domestic distilled spirits, as established by the one hundred and seventy-first section, article eleventh of chapter seventeen, part first of the Revised Statutes: And the specific gravity of said oils may be tested by a hydrometer or an oleometer. Specific gravity thereof.

§ 3. It shall be the duty of the secretary of state, to furnish at the expense of the state, to the clerk of each county, a correct oleometer, graduated so as to shew the difference between pure sperm oil and whale oil, which oleometers shall be kept by the clerks of the respective counties, for public use, and shall be the standard and true test of pure sperm oils. Duty of secretary of state.

§ 4. All oils sold under the names mentioned in the first section of this act, which shall be adulterated from pure sperm oil, shall be deemed whale oil, and the vender or Liability of vendors.

PART I.

venders shall be liable to the purchaser or purchasers for the difference in value between pure sperm oil and crude whale oil, to be recovered in any court having jurisdiction thereof, with costs of suit.

Penalty for
selling adul-
terated oil.

§ 5. Any person or persons, who shall sell any oil or oils, commonly known under the names specified in the first section of this act, which have been adulterated by a mixture of whale oil or other inferior oils, shall forfeit for each and every such offence, the sum of fifty dollars, provided the quantity of oil so sold shall be twenty-five gallons or more; and the sum of five dollars in each case where the quantity of such adulterated oil shall be less than twenty-five gallons, to be recovered with costs of suit, in an action of debt or assumpsit, in the name and for the benefit of any person who shall prosecute for the same.

Repeal.

§ 6. The "Act for the prevention of frauds in the sale of oils," passed April 25th, 1832, is hereby repealed.

CHAP. 52.

AN ACT authorizing any citizen of the state of New York to become an auctioneer.

PASSED February 28, 1838.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Any citizen
may become
an auction-
eer.

§ 1. Any citizen of the state of New York may become an auctioneer, and may legally transact the business and perform the duties of an auctioneer, in the county in which he resides, on executing and depositing with the comptroller an approved bond, in double the amount now required by law with sureties for the payment of the auction duties, in the manner prescribed by the eleventh, twelfth and thirteenth sections of title first of chapter seventeenth of part first of the Revised Statutes.

Bond, how
to be drawn

§ 2. An express clause shall be inserted in the bond, subjecting the same to forfeiture, in case the obligor shall not render a true and accurate account quarterly of all goods sold or struck off by him; and such quarterly account shall be rendered as required in the twenty-seventh section of title first of chapter seventeenth of part first of the Revised Statutes; and such account shall contain, in addition to the statements required in said sections, a distinct statement of all goods struck off, but not actually sold, and he shall pay the auction duties on all such goods so struck off.

Penalty for
fraudulent
conduct.

§ 3. Whenever an auctioneer shall be found guilty, before any police or mayor's court, or court of criminal jurisdiction in this state, of fraudulent practices, he shall be forever thereafter disqualified from exercising the rights, or pursuing the business, of an auctioneer, and shall also be deemed guilty

of a misdemeanor, punishable by fine and imprisonment, or either, in the discretion of the court before whom such conviction shall be had; the amount of which fine shall not exceed the sum of five hundred dollars, and the term of which imprisonment shall not exceed one year; and any person who shall at any time after such conviction, transact the business of an auctioneer, and any person who shall at any time transact the business of an auctioneer without first having complied with the provisions of this act, shall for each offence be deemed guilty of a misdemeanor, punishable in like manner as is herein above specified.

§ 4. So much of any act heretofore passed as is inconsistent with this act is hereby repealed. Repeal.

CHAP. 340.

AN ACT to encourage the growth and manufacture of silk.

PASSED May 26, 1841.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. To any person or persons residing in this state, who shall present for examination, to any justice of the peace of the city or town where such person or persons reside, a pound or more of good dry silk cocoons, or a pound or more of good, well reeled silk, and shall by his, her or their oath or affirmation, or by the oath or affirmation of some other credible person, prove to the satisfaction of such justice that the cocoons presented were raised in the city or town, where such justice resides, or that the silk was reeled in such city or town and from cocoons raised in this state, and that the same or any portion thereof has not been before presented to any justice of the peace for examination and certificate, the said justice having examined and caused the same to be weighed, shall give his official certificate specifying the number of pounds of cocoons of silk presented, the time when and the place where the same were raised or reeled, and the names of the person or persons by whom the same were raised or reeled, together with the name of the person by whose oath or affirmation the facts have been verified. And on the presentation of any such certificate to the board of supervisors of the same county, they having examined and found the same to be duly given, shall audit and allow said certificate and cause their allowance to be endorsed upon the same, requiring the treasurer of said county to pay to the bearer thereof, a premium of fifteen cents for every pound of cocoons and fifty cents for every pound of reeled silk specified in said certificate. Premium for the pound or more best silk produced.

§ 2. It shall be the duty of each county treasurer, to whom such certificates thus audited and allowed shall be presented, to enter in a book, kept by him for that purpose, the date of County treasurers to enter certificates in a book.

PART I

Abstracts
to be sent
to comp-
troller who
is to pay
amount
specified.

said certificates, the number of pounds of cocoons or reeled silk named therein, and the name of the person or persons for whose benefit the same were given, and to endorse upon said certificates his acceptance thereof and the time when presented to him, and return the same to the bearer thereof, to be presented for payment as hereinafter directed.

§ 3. On or before the first day of May, in each and every year, the several county treasurers of this state, to whom shall have been presented for acceptance any such certificate or certificates as are specified in the preceding sections of this act, shall cause to be made an abstract or abstracts of all such certificates so presented and accepted, stating the number of pounds of cocoons or reeled silk and the amount of premium due therefor, and shall transmit the same to the Comptroller of this state, who shall by his warrant authorize and direct the Treasurer of the state to pay to the county treasurers the several amounts specified in the abstracts by them transmitted, And the said county treasurers shall thereupon proceed to pay the premiums due upon the certificates by them respectively accepted, as the same shall be presented for payment.

Penalty.

§ 4. False swearing or affirming under this act shall be deemed as perjury; and any fraud practised under the same shall be a misdemeanor, and be severally punished as such.

CHAP. 86.

AN ACT to repeal so much of the Revised Statutes as directs the payment of a commission of two and one half per cent upon duties paid by auctioneers.

PASSED April 8, 1843.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Repeal.

§ 1. So much of section thirty-two, of title one, of chapter seventeen, of part one of the Revised Statutes, as directs the payment of a commission of two and a half per cent upon the whole amount of duties paid by auctioneers, is hereby repealed.

Ante, vol. 1, p. 495.

CHAP. 202.

AN ACT to amend the inspection laws.

PASSED April 18, 1843.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Compulsory
inspection
abolished.

§ 1. The provision of title two, chapter seventeen, part first, of the Revised Statutes, entitled "Of the inspection of pro-

visions, produce and merchandize," and all other statutes in relation thereto, except salt manufactured in this state, so far as the same or any of them prohibit the exportation or the buying and selling of flour and meal, beef and pork, pot and pearl ashes, fish or liver oil, lumber, staves and heading, flax-seed, sole-leather, hops, distilled spirits, leaf tobacco, wood, timber, bark, lime, green hides and skins, without a compliance therewith, unless by the consent or at the request of the owner or some person interested therein, are hereby repealed.

§ 2. The provisions of the second, third and fourth articles of title three, chapter seventeen, part first of the Revised Statutes, and of all other statutes so far as the same require grain or stone to be measured, or any article of merchandize to be weighed, against the consent or without the consent of the owner or some person interested therein, are hereby repealed.

Ante, vol. — p. 496.

There are no articles 2, 3 and 4 in title 3. Title 2 is probably meant.

Weighing
and meas-
uring.

CHAP. 62.

AN ACT in relation to duties on goods sold at public auction and to the bonds of auctioneers.

PASSED April 11, 1846.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All goods, wares and merchandise, and every other species of personal property, which shall at any time be exposed to sale by public auction, or offered for sale by sample or otherwise by brokers, with the exceptions mentioned in the second section of this act, and in the fifth section of title one, chapter seventeen of part one of the Revised Statutes shall be subject, each and every time that they shall be sold, to fees or duties at the following rates, namely:

Goods sold
to be sub-
ject to
duty.

1. All wines and ardent spirits, foreign or domestic, at the rate of one dollar on every one hundred dollars:

Amount
of duties.

2. All goods, wares, merchandise and effects, imported from any place beyond the Cape of Good Hope, at the rate of fifty cents on every one hundred dollars:

3. All other goods, wares, merchandise and effects, which are the production of any foreign country, at the rate of seventy-five cents on every one hundred dollars:

These fees shall be calculated on the sums for which the goods so exposed or offered for sale, shall be struck off or sold, and shall in all cases be paid by the person making the sale; and the account, to be made in writing as directed by section twenty-seven of title one of chapter seventeen of part one of the Revised Statutes, shall be made by every auctioneer and broker under oath, on the first Monday in July and January in each year, subject to the penalties for non-compliance imposed upon auctioneers in said title. One-half of the fees or duties to which damaged goods are now subject, shall be paid into the treasury of the state.

As amended by Laws of 1861, ch. 547. Post, vol. 6, p. 774.

§ 2. No auction duties shall be payable upon the following goods and articles:

Goods and
articles not
liable to
duties.

1. Ships and vessels:
2. Utensils of husbandry, horses, neat cattle, hogs and sheep:
3. Articles of the growth, produce and manufacture of the United States, except distilled spirits.

§ 3. The account required by law from every auctioneer

Accounts to
be rendered

PART I.

shall hereafter be rendered semi-annually, on the first Mondays of July and January in each year.

Bond.

§ 4. The bond required by law from every auctioneer shall be renewed on or before the first Monday of January in each and every year.

Duty of auctioneers in New York.

§ 5. Every auctioneer in the city of New York shall, within ten days after the bond required by law shall have been executed, and the certificate required by law endorsed thereon, file a copy thereof, and also a copy of said certificate, certified by the officer taking the bond, with the clerk of the city and county of New York.

Duty of county clerk.

§ 6. The clerk of the city and county of New York shall keep a book or books, with an index alphabetically arranged, in which he shall cause to be recorded every bond so filed, for which he shall be entitled to a fee of fifty cents for every bond so filed, to be paid by the party executing such bond.

Penalty for neglect.

§ 7. Every auctioneer neglecting to file such certified copy within the time required by law, shall forfeit for every such neglect the sum of one hundred dollars, such penalty to be sued for and recovered by the district attorney, and when recovered to be paid into the treasury of the State.

Penalty for selling without filing bond.

§ 8. Any person who shall act as auctioneer in selling any goods liable to auction duties, without filing the bonds required by law, or who shall neglect to make or render the accounts, or to pay over the duties required by law, shall be deemed guilty of a misdemeanor and punished by imprisonment, not exceeding one year, or by fine, not exceeding one thousand dollars, or by both such fine and imprisonment.

Provision respecting damaged goods.

§ 9. To entitle any goods, wares or merchandize, or other property sold at auction in the city and county of New York, after the passage of this act, to an exemption from the payment of auction duties to the State, as goods damaged at sea upon the voyage of importation, the auctioneer shall be furnished before sale with a proper certificate from the board of port wardens of the port of New York, that such goods were examined by a member of that board, at the proper time and in the proper manner, and that they were damaged at sea upon the voyage of importation, so as in the opinion of said board of wardens to be entitled to be sold at auction as damaged goods, and be exempt from the payment of auction duties; and also with a statement, upon oath of the president or secretary of the Marine Insurance Company in the city and county of New York, in which said goods shall have been insured, in case any insurance shall have been effected on said goods, stating the fact of insurance of the goods in such company and the amount insured thereon, which said certificates shall be by the said auctioneer exhibited publicly at the said sale, upon the demand of any port warden, or any other person interested in the said goods, or in the sale thereof; and without such certificates duly furnished to the auctioneer employed to sell the same, all such goods shall, from and after

the passage of this act, be charged with the same auction duties as like goods are subject to, which are not damaged or claimed to be so.

§ 10. Sections first and fourth of title first chapter seventeenth part first of the Revised Statutes, and all acts or parts of acts inconsistent with the provisions of this act, are hereby repealed. Repeal.

CHAP. 207.

AN ACT in relation to the sale of bottles used by the manufacturers of mineral waters and others.

PASSED May 7, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All persons engaged in the manufacture, bottling, or selling of soda and mineral waters, porter, ale, cider or small beer in bottles with their names or other marks stamped thereon, may file in the office of the secretary of state, and of the clerk of any county in which such articles shall be bottled or sold, a description of the names and marks so used by them, and cause the same to be printed for six weeks successively, in a weekly newspaper published in such county, except the city and county of New York, where such publication shall be made for the same term in two daily newspapers published in said city.

Descriptions of bottles to be filed.

[For § 2 see Laws of 1860, ch. 117.] Post, p. 670.

CHAP. 242.

AN ACT to prevent fraudulent, fictitious, or pretended sales at auction.

PASSED May 8, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All goods, wares and merchandize, and every other species of property except ships, vessels, real or leasehold estate which shall hereafter be exposed for sale by auction, in the city of New York, and shall be struck off by the auctioneer exposing the same for sale, or by any person in his behalf, to the previous owner or owners thereof, or to any person or persons bidding in his or their behalf, or to any fictitious person or persons, or in any other manner than so as that actual sale and purchase and change of ownership of and in the goods, wares and merchandize so struck off, shall thereupon be effected and take place, and shall be subject each and

Goods exposed to sale and struck off subject to duty.

PART I.

every time they shall be so struck off, to duties at the rate of five dollars on every hundred dollars.

Penalty.

§ 2. Whoever shall offend against any of the foregoing provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished therefor by a fine not exceeding one hundred dollars, or by imprisonment not exceeding one month, or both such fine and imprisonment.

Semi-annual report of auctioneers.

§ 3. The semi-annual report of the auctioneer shall contain a statement of all the merchandize brought in by the owner or owners, or in his or their behalf, the time the sale was made, and the amount thereof.

CHAP. 399.

AN ACT to prevent fraud in the returns made to the comptroller of sales at auction.

PASSED April 11, 1849; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Books of auctioneers to be examined by comptroller.

§ 1. The comptroller is hereby authorized, and it is made his duty, to cause an examination to be made as often as once in each year, of the books and accounts of auction sales kept by the auctioneers who shall have given bonds for the payment of duties on goods sold at public auction; and in case it shall appear from such examination that any auctioneer has made a false return of the amount of goods sold by him subject to duty, the comptroller shall cause an action to be brought in the name of the people of this state, against the auctioneer making such false return, and his sureties, for the recovery of such sum as shall appear from the examination herein provided, to be actually due for duties on the sales made by such auctioneer.

Agents.

§ 2. The comptroller is hereby authorized to employ an agent or agents, whose duty it shall be to carry this act into effect, who shall examine as often as twice a year, and whenever the comptroller shall deem it necessary the books and accounts of sales kept by the auctioneers who shall have given bonds for the payment of fees or duties on goods sold at public auction, and of brokers who shall have given bonds for the payment of fees or duties on goods vended by them, as specified by law. The compensation of such agents shall be fixed by the comptroller, and such agent or agents shall have full power to administer an oath to each auctioneer or broker, and to require such information as may be necessary to ascertain the true amount of goods sold by such broker or auctioneer.

As amended by Laws of 1866, ch. 547. Post, vol. 6, p. 774.

Appropriation.

§ 3. The sum of five hundred dollars is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to pay the expenses which may be incurred in the execution of this act.

CHAP. 123.

AN ACT to amend an act passed May 14th, 1845, entitled
 "An act to punish and prevent frauds in the use of false
 stamps and labels."

PASSED April 1, 1850.

*The People of the State of New York, represented in Senate
 and Assembly, do enact as follows:*

§ 1. That the act entitled "An act to punish and prevent
 frauds in the use of false stamps and labels," passed May 14,
 1845, be, and the same is hereby amended so as to read as
 follows:

Every person who shall knowingly and wilfully forge or
 counterfeit, or cause or procure to be forged or counterfeited,
 any representation, likeness, similitude, copy, or imitation of
 the private stamp, wrapper or label, usually affixed by any
 mechanic or manufacturer to, and used by such mechanic or
 manufacturer, on or in the sale of any goods, wares, or mer-
 chandise with intent to deceive or defraud the purchaser or
 manufacturer of any goods, wares or merchandise whatsoever,
 upon conviction thereof, shall be punished by imprisonment
 in the county jail for a term not exceeding six months.

Penalty for
 forging
 false label.

23 B., 609.

§ 2. Every person who shall have in his possession any die,
 plate, engraving or printed label, stamp or wrapper, or any re-
 presentation, likeness, similitude, copy or imitation of the pri-
 vate stamp, wrapper or label, usually affixed by any mechanic
 or manufacturer to and used by such mechanic or manu-
 facturer, on or in the sale of any goods, wares or merchandise,
 with intent to use or sell the said die, plate, engraving or
 printed stamp, label or wrapper, for the purpose of aiding or
 assisting in any way whatever in vending any goods, wares
 or merchandise, in imitation of or intended to resemble and be
 sold for the goods, wares and merchandise of such mechanic
 or manufacturer, shall, upon conviction thereof, be punished
 by imprisonment in a county jail for a term not exceeding
 six months.

Penalty for
 having false
 label in pos-
 session.

§ 3. Every person who shall vend any goods, wares or
 merchandise, having thereon any forged or counterfeited
 stamps or labels imitating, resembling or purporting to be the
 stamps or labels of any mechanic or manufacturer, knowing
 the same to be forged or counterfeited, and resembling or
 purporting to be imitations of the stamps or labels of such
 mechanic or manufacturer, without disclosing the fact to the
 purchaser, shall, upon conviction, be deemed guilty of a mis-
 demeanor, and shall be punished by imprisonment in the
 county jail not exceeding six months, or by fine not exceed-
 ing one hundred dollars.

Penalty for
 vending
 goods with
 false label.

4 Bos., 679.

CHAP. 307.

AN ACT to restrain short measure in the sale of dry goods.

PASSED April 10, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Penalty for
selling
short mea-
sure.

§ 1. For every piece, parcel or package of dry goods, sold at public auction or otherwise, which on measurement shall be found not to contain as many yards as are marked thereon, it shall be lawful for the vendee or vendees to deduct from the consideration to be paid to the vendor or vendors the value of the deficiency, and an amount equal to the same, as a penalty for selling his or their goods short of measure, that is to say, the vendor shall forfeit to the vendee an amount in value equal to the quantity short by fair measurement, in addition to the deficiency.

Claim to be
made with-
in five days.

§ 2. No purchaser or purchasers shall avail him or themselves of the forfeiture in this law unless the claim for deduction is made within five days after the delivery of the goods, when the purchaser or purchasers, or his or their agent is a resident of the city or village where the goods are sold; or if non-residents, within five days after the arrival of the goods at their place of destination, said claim to be made by letter, deposited in the post office directed to the vendor's usual address.

Measure-
ment, how
made.

§ 3. The measurement of any one piece, taken out at random from such case, package, lot or parcel of dry goods, may be taken as an average of the measurement of all the pieces in such case, package, lot or parcel, unless the vendor or vendors, his or their clerk or agent shall desire to measure any one other piece taken at random, as aforesaid, in which event, if the two measurements do not agree, the average measurement of the two may be considered as an average of all. And where the place of business of the vendee or vendees is in another city or town from that of the vendor or vendors, the vendor or vendors may require of the vendee or vendees an affidavit of some disinterested person that he has measured one or more pieces of said goods, and believes the average deficiency stated in the claim to be correct.

CHAP. 138.

AN ACT to punish gross frauds and to suppress mock auctions.

PASSED April 9, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Whereas, a failure of justice frequently arises from the subtle distinction between larceny and fraud; and whereas, certain evil disposed persons, especially in the city of New York, have for several years past, by means of certain fraudulent and deceitful practices, known as mock auctions, most fraudulently obtained great sums of money from unwary persons, to their great impoverishment:

Mock auctions.

§ 2. Each and every person who shall, through or by means of the afore recited deceitful and fraudulent practices, or by means of any other gross fraud or cheat at common law, designedly and with intent to defraud, obtain from any other person any money or any goods, wares, merchandize or other property, or shall obtain with such intent the signature of any person to any written instrument, the false making whereof would be punishable as forgery, shall, on conviction, be punished by imprisonment in the state prison for not more than three years, or in the county jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment; provided always that if, upon the trial of any person indicted for such fraud, it shall be proved that he obtained the property in question in any such manner as to amount in law to a larceny, he shall not, by reason thereof, be entitled to an acquittal; and no person tried for such fraud shall be liable to be afterwards prosecuted for larceny upon the same facts.

Penalty for certain fraudulent and deceitful practices.

Proviso.

22 N. Y., 415.

§ 3. All auctioneers doing business in the city and county of New York shall hereafter be required, between the first and fifteenth of June, in each and every year, to obtain from the mayor of said city a license to engage in and carry on such business and occupation, upon filing a bond with two good securities, in the penal sum of two thousand dollars.

All auctioneers to obtain license from mayor and give bond.

§ 4. The mayor, on the complaint of any person having been defrauded by any auctioneer, or the clerk, agent or assignee of such auctioneer doing business in the city and county of New York, is hereby authorized and directed to take testimony under oath relating thereto; and if the said charge shall, in his opinion be sustained, then he shall revoke the license granted under the provisions of this act, and commit the parties for trial according to law, and direct the said bonds to be forfeited, as provided for in the preceding section.

Testimony to be taken by mayor.

Revocation of license and forfeiture.

PART I.
Repeal.

§ 5. All acts and parts of acts conflicting with the provisions of this act are hereby repealed.

CHAP. 421.

AN ACT to regulate the liability of Hotel Keepers.

PASSED April 13, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Safe for
money, &c.

§ 1. Whenever the proprietor or proprietors of any hotel shall provide a safe in the office of such hotel, or other convenient place for the safe keeping of any money, jewels or ornaments belonging to the guests of such hotel, and shall notify the guests thereof, by posting a notice, (stating the fact that such safe is provided, in which such money, jewels or ornaments may be deposited), in the room or rooms occupied by such guest, in a conspicuous manner, and if such guest shall neglect to deposit such money, jewels or ornaments in such safe, the proprietor or proprietors of such hotel shall not be liable for any loss of such money, jewels or ornaments, sustained by such guest, by theft or otherwise.

21 N. Y., 112; 33 N. Y., 571, 577; 44 B., 31; 36 B., 75.

CHAP. 725.

AN ACT in relation to weight marks and tare on casks and packages.

PASSED April 17, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Weight
marks.

§ 1. When any person in this state shall put up for sale any beef, pork, lard, hams, flour, meal, candles, cheese, starch, or other articles of produce or merchandise, in casks or packages, and shall mark or stamp on such cask or package the weight of the contents of such cask or package, with a view to sell the same, such mark and stamp shall be the true weight thereof, and the true tare of such cask or package shall be marked thereon; and if any person shall knowingly mark or stamp false or short weight or false tare on any cask or package and shall sell or offer for sale the contents of any such cask or package so marked or stamped false or short, shall forfeit the sum of twenty-five dollars for every such cask or package so sold or offered for sale, and be guilty of a misdemeanor.

False
marks.

CHAP. 326.

AN ACT to prevent the issue of false receipts, and to punish fraudulent transfers of property by warehousemen, wharfingers and others.

PASSED April 17, 1858.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. No warehouseman, wharfinger, public or private inspector, or custodian of property, or other person, shall issue any receipt, acceptance of an order or other voucher, for or upon any goods, wares, merchandise, provisions, grain, flour, or other produce or commodity, to any person or persons purporting to be the owner or owners thereof, or entitled or claiming to receive the same, unless such goods, wares, merchandise, provisions, grain, flour or other commodity, shall have been actually received into the store or upon the premises of such warehouseman, wharfinger, inspector, custodian, or other person, and shall be in store or on the said premises as aforesaid and under his control at the time of issuing such receipt, acceptance or voucher.

When warehouseman, &c., may issue receipts, &c.

As amended by Laws of 1866, ch. 440. Post, vol. 6, p. 735.

§ 2. No warehouseman, wharfinger, or other person, shall issue any receipt or other voucher upon any goods, wares, merchandise, grain, flour, or other produce or commodity, to any person or persons, as security for any money loaned, or other indebtedness, unless such goods, wares, merchandise, grain, or other produce or commodity, shall be at the time of issuing such receipt in the custody of such warehouseman, wharfinger, or other person, and shall be in store or upon the premises, and under his control at the the time of issuing such receipt or other voucher, as aforesaid.

No receipt to be issued unless goods in possession.

§ 3. No warehouseman, wharfinger, inspector, custodian, or other person, shall issue any second or duplicate receipt, acceptance, or other voucher, for or upon any goods, wares, merchandise, provisions, grain, flour, or other produce or commodity, while any former receipt, acceptance or voucher, for or upon any such goods, wares, merchandise, provisions, flour, grain, or other produce or commodity, as aforesaid, or any part thereof, shall be outstanding and uncanceled without writing in ink across the face of the same, "duplicate."

Duplicate receipts, &c.

As amended by Laws of 1866, ch. 440. Post, vol. 6, p. 735.

§ 4. No warehouseman, wharfinger, or other person, shall sell or encumber, ship, transfer or in any manner remove beyond his immediate control, any goods, wares, merchandise, grain, flour, or other produce or commodity, for which a receipt shall have been given by him as aforesaid, whether

Shall not sell, &c.

PART I.

No master
to sign or
give bill
of lading
in certain
cases.

received for storing, shipping, grinding, manufacturing or other purposes, without the written assent of the person or persons holding such receipt.

§ 5. No master, owner or agent of any vessel or boat of any description, or officer or agent of any railroad company, or other person, shall sign or give any bill of lading, receipt, or other voucher or document, for any merchandise or property, by which it shall appear that such merchandise or property has been shipped on board any vessel, boat or railroad car, unless the same shall have been actually shipped and put on board, and shall be at the time actually on board or delivered to such vessel, boat or car, to be carried and conveyed as expressed in such bill of lading, receipt, or other voucher or document.

Warehouse
receipts
transfer-
able.

§ 6. Warehouse receipts given for any goods, wares, merchandise, grain, flour, produce, or other commodity, stored or deposited with any warehouseman, wharfinger, or other person, may be transferred by endorsement thereof, and any person to whom the same may be so transferred, shall be deemed and taken to be the owner of the goods, wares and merchandise therein specified, so far as to give validity to any pledge, lien or transfer made or created by such person or persons; but no property shall be delivered except on surrender and cancellation of said original receipt, or the endorsement of such delivery thereon in case of partial delivery. All warehouse receipts, however, which shall have the words "not negotiable," plainly written or stamped on the face thereof, shall be exempt from the provisions of this section.

See Laws of 1859, ch. 353. Post, p. 669.

Penalty.

§ 7. Any warehouseman, wharfinger, inspector, custodian, or other person, who shall willfully violate any of the foregoing provisions of the said act, as hereby amended, shall be deemed guilty of a misdemeanor, and, upon indictment and conviction, shall be fined in any sum not exceeding one thousand dollars, or imprisonment not exceeding one year, or by both such fine and imprisonment; and all and every person or persons aggrieved by the violation of any of the provisions of said act, as herein before mentioned, may have and maintain an action at law against the person or persons violating any of the provisions of said act as hereby amended, to recover all damages, immediate or consequential, which he or they may have sustained by reason of any such violation as aforesaid, before any court of competent jurisdiction, whether such person shall have been convicted as herein before mentioned or not.

As amended by Laws of 1866, ch. 440. Post, vol. 6, p. 736.

Limitation
of act.

§ 8. So much of the preceding fourth and sixth sections as forbids the delivery of property except on surrender and cancellation of the original receipt, or the endorsement of such delivery thereon in case of partial delivery, shall not apply to property replevied or removed by operation of law.

CHAP. 72.

AN ACT to amend an act entitled "An act to regulate the sale of keg oysters," passed April tenth, eighteen hundred and forty-nine.

PASSED March 28, 1859; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Chapter three hundred and seventy-two of the Laws of eighteen hundred and forty-nine, entitled "An act to regu-

late the sale of keg oysters," is hereby amended so as to read as follows:

It shall be the duty of every person or company of persons, who now are, or may be hereafter engaged in putting up oysters for sale in kegs or cans, or who may offer for sale within the state oysters so put up, which have not been previously branded, to mark or brand such kegs or cans with the true quantity of oysters, in pints, quarts or gallons, which they may respectively hold, and not more than one-quarter of the quantity so marked on any keg or can shall be liquid.

Kegs and
cans to
be marked.

§ 2. Every person or company of persons who shall offend against any of the provisions of the first section of this act, shall incur a penalty of twenty dollars, recoverable in an action against the party or parties, in the name of any person who shall sue for the same.

Penalty.

§ 3. One-half of the sum which may be recovered under the provisions of this act shall be paid to the superintendent of the poor or overseers of the poor of the county in which the offense shall be committed, and in the city of New York to the governors of the alms-house for the use of the poor therein, and the other half shall be for the use of the person who shall sue for and recover the same.

Id.

CHAP. 353.

AN ACT to amend the act entitled "An act to prevent the issue of false receipts, and to punish fraudulent transfers of property by warehousemen, wharfingers and others," passed April seventeenth, eighteen hundred and fifty-eight.

PASSED April 15, 1859.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The sixth section of the act entitled "An act to prevent the issue of false receipts, and to punish fraudulent transfers of property by warehousemen, wharfingers and others," is hereby amended by adding at the end of said section, the following words: "All the sections of the act hereby amended, shall apply to and be applicable to bills of lading, and to all persons or corporations that shall or may issue bills of lading of any kind or description, the same as if the words 'forwarder and bills of lading,' were mentioned in each and every section of said act." Ante, p. 668.

Sec. 6
amended.

CHAP. 117.

AN ACT to amend an act entitled "An act in relation to the sale of bottles used by the manufacturers of mineral waters and others," passed May seventh, eighteen hundred and forty-seven.

PASSED March 24, 1860; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 2
amended.

§ 1. Section second of an act entitled "An act in relation to the sale of bottles used by the manufacturers of mineral waters and others," passed May seventh, eighteen hundred and forty-seven, is hereby amended so as to read as follows:

It is hereby declared to be unlawful for any person or persons hereafter, without the written consent of the owner thereof, to fill with mineral waters or other beverages, any such bottle so marked or stamped, or to sell, dispose of, buy, or traffic in any such bottles so marked or stamped by him, her or them, of such owner thereof, or to fill the same with mineral water or other beverages; any such person so offending shall be liable to a penalty of fifty cents for each and every bottle so filled, bought, sold, used or trafficked in, for the first offense, and five dollars for each and every bottle so filled, bought, sold, used or trafficked in, for every subsequent offense. Ante, p. 661.

Presump-
tive evi-
dence.

§ 2. The fact of any person other than the rightful owner thereof, without such written permission as aforesaid, using such bottles for the sale therein of any mineral water or other beverage, shall be presumptive evidence of the unlawful use and purchase of such bottles, and any such owner, or the agent of such owner, who shall make oath or affirmation before any magistrate that he has reason to believe, and does believe, that any of his bottles, stamped and registered as aforesaid, are being unlawfully used by any person or persons selling or manufacturing mineral water or other beverages, or that any junk dealer or vender of bottles, shall have any of such bottles secreted upon his premises or in any other place, then the said magistrate shall thereupon proceed to obtain the same under the existing provisions of law in relation to search warrants, which are hereby declared to fully relate to the purposes of this act; and the magistrate shall have power, in a summary way, to bring, or cause to be brought before him, the person in whose possession said bottles may have been found, to examine into the circumstances of his said possession, and if he shall find on summary examination, that said person has disobeyed or violated any of the foregoing provisions, the magistrate shall proceed to impose the fine,

and if the same be not paid, to commit said person to prison for a term not to exceed fifteen days.

24 N. Y., 399.

CH. XVII.

CHAP. 155.

AN ACT in relation to bale hay and hay scales.

PASSED April 3, 1860.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Every person who shall put up and press any bundle or bale of hay for market, shall mark or brand, in a legible manner, the initials of his name on some board or wood attached to such bundle or bale of hay.

Initials to be attached to bundles or bales.

§ 2. No person shall put or conceal in any such bundle or bale of hay, any wet or damaged hay, dirt or stones, wood or other materials, for the purpose of increasing the weight of such bundle or bale.

False packing.

§ 3. The mayor of the city and county of New York is hereby authorized and empowered to regulate, license, and from time to time fix the number of hay scales in said city, and for cause, to revoke any license given by him; and all persons in said city are prohibited from giving certificates of weight of hay, except those who have received such license, who shall be required to mark legibly on each bale the gross weight thereof.

Mayor of New York to license hay scales.

§ 4. Any person violating any of the provisions of this act, shall be subject to a fine of twenty-five dollars for each offense.

Fine for violation.

CHAP. 178.

AN ACT to regulate the size of apple, pear and potatoe barrels.

PASSED May 12, 1862.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. A barrel of apples, pears or potatoes shall represent a quantity equal to one hundred quarts of grain or dry measure, and all persons buying or selling those articles in this state, by the barrel, shall be understood as referring to the quantity specified in this act.

CHAP. 306.

AN ACT to prevent and punish fraud in the use of false stamps, brands, labels, or trade marks.

PASSED April 17, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Forging
stamps, &c.

§ 1. Any person or persons who shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged or counterfeited, any representation, likeness, similitude, copy, or imitation of the private stamp, brand, wrapper, label or trade mark, usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman, to and upon the goods, wares, merchandise, or preparation of such mechanic, manufacturer, druggist, merchant or tradesman, with intent to pass off any work, goods, manufacture, compound or preparation to which such forged or counterfeited representation, likeness, similitude, copy or imitation is affixed or intended to be affixed, as the work, goods, manufacture, compound or preparation of such mechanic, manufacturer, druggist or tradesman, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for a period of not less than six months, nor more than twelve months, or fined not more than five thousand dollars.

Punish-
ment.

False dies,
stamps, &c.

§ 2. Any person or persons who shall with intent to defraud any person or persons, body corporate or politic have in his or their possession, any die or dies, plate or plates, brand or brands, engraving or engravings, or printed labels, stamps, imprints, wrapper, or trade marks, or any representation, likeness, similitude, copy, or imitation of the private stamp, imprint, brand, wrapper, label, or trade mark usually affixed by any mechanic, manufacturer, druggist, merchant, or tradesman, to or upon articles made, manufactured, prepared, or compounded by him or them, for the purposes of making impressions, or selling the same when made, or using the same upon any other article made, manufactured, prepared, or compounded, and passing the same off upon the community as the original goods, manufactures preparations, or compounds of any other person or persons, or who shall, so in fact, sell or use the same, or who shall wrongfully and fraudulently use the genuine stamp, brand, imprint, wrapper, label or trade mark, with intent to pass off any goods, wares, merchandise, mixtures, compounds, or other article, not the manufacture of the person or persons to whom such stamp, brand, imprint, wrapper, label, or trade mark, properly belongs as genuine and original, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than six months, nor

Punish-
ment.

more than twelve months, or be fined not more than five thousand dollars.

§ 3. Any person who shall vend or keep for sale any goods, merchandise, mixture or preparation, upon which any forged or counterfeited stamps, brands, imprints, wrappers, labels or trade marks, be placed or affixed, and intended to represent the said goods, merchandise, mixture or preparation as the genuine goods, merchandise, mixture or preparation of any other person or persons, knowing the same to be counterfeited, shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars in each case so offending, and shall also be liable in a civil action to the person or persons whose goods, merchandise, mixture or preparation is counterfeited or imitated, or whose stamps, brands, imprints, wrappers, labels or trade marks are forged, counterfeited, placed or affixed, for all damages such person or persons may sustain by reason of any of the acts in this section mentioned, and may be restrained or enjoined by any court of competent jurisdiction from doing or performing any of the acts above mentioned.

Selling, &c., with forged brands, &c.

Punishment.

As amended by Laws of 1863, ch. 209. Post, vol. 6, p. 90.

§ 4. Any person or persons who shall, with intent to defraud any person or persons, body corporate or politic, knowingly affix, or cause to be affixed, to or upon any bottle, case, box or package, containing any goods, manufacture, preparation or compound, any stamp, brand, label, wrapper, imprint or mark, which shall designate such goods, manufacture, preparation or compound, either wholly or in part, by a word or words, which shall be wholly or in part the same to the eye, or in sound to the ear, as the word or words, or some of the words used by any other person or persons, for designating any goods, manufacture, preparation or compound, manufactured or prepared by or for such other person or persons, or who shall knowingly sell or expose, or offer for sale any such bottle, case, box or package, with any such stamp, brand, label, wrapper, imprint or mark, affixed to or upon it, shall, provided such person or persons so affixing or causing to be affixed any such stamp, brand, label, wrapper, imprint or mark, or so selling or exposing or offering for sale any such bottle, case, box or package, shall not have been the first to employ or use such words to designate wholly or in part, any goods, manufacture, preparation or compound, upon conviction thereof be deemed guilty of a misdemeanor, and shall be punished by imprisonment in the county jail not less than six months, nor more than twelve months, or be fined not more than five thousand dollars, and shall also be liable to the party aggrieved in the penal sum of one hundred dollars for each and every offence, to be recovered by him in any court of law in this state.

Selling or offering to sell packages, &c., with intent to defraud.

Punishment.

Repealed.

As amended by Laws of 1863, ch. 209. Post, vol. 6, p. 90.

§ 5. The act entitled an act to punish and prevent frauds in the use of false stamps and labels, passed May fourteenth, eighteen hundred and forty-five, and all acts amendatory thereof, are hereby repealed.

Testimony given not to be used in certain cases.

§ 6. No testimony or evidence given by any person in any civil action, to which such person may be a party, or by any other witness in such action, or on any reference or proceeding which may be had in such action, nor any evidence or testimony derived from the books or papers of such party or witness, produced by him as a witness, or otherwise, in such action, or in any reference or other proceedings which may be had therein, can or shall be used in any criminal prosecution against such party or witness, under any of the provisions of this act; nor shall any party or witness refuse to

Parties and

PART I.
witnesses
to testify.

Saving
clause.

testify or furnish evidence in any civil action, by reason of any of the provisions of this act.

§ 7. But no offence committed previous to the time when this statute shall take effect shall be affected by this act, except that when any punishment shall be mitigated by the provisions of this act, such provision shall control any judgment to be pronounced after the said act shall take effect, for any offence committed before that time; nor shall any prosecution for any offence pending at the time the aforesaid statutory provisions shall be repealed be affected by such repeal, but the same shall proceed in all respects as if such provision had not been repealed.

CHAPTER XVIII.

Corporations.

CHAP. 295.

AN ACT to prevent the abatement of suits, by or against corporations, in certain cases.

PASSED April 26, 1832.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

The dissolution of a corporation not to abate a suit.

§ 1. The dissolution of a corporation, by a decree of the court of chancery, or by the expiration of its charter, or otherwise, shall not abate any suit or proceedings in favor of such corporation, which shall have been pending at the time of such dissolution; but all such suits or proceedings may be continued by the receivers who shall have been appointed for such corporation by the court of chancery, or by the trustees on whom the estate and effects of such corporation shall have devolved, in the name of such corporation or in the names of such receivers or trustees, who may be substituted as plaintiffs under the direction of the court in which the suit shall be pending, and subject to such order as the court may deem expedient in relation to the payment or security of costs.

9 Pai., 414.

New suits may be brought.

§ 2. Whenever a receiver of the property or effects of a corporation, has been appointed before its dissolution or afterwards, new suits may be brought and carried on by any such receivers, either in their own names or in the names of the corporation for which they shall have been appointed; but no new suit shall be brought in the name of a corporation after it shall have been dissolved, or after the expiration of its charter.

To be continued.

§ 3. No suit commenced in the name of any such receiver, shall be abated by his removal or death; but the same may

be continued in the name of his successor, or of the corporation, if its charter has not expired or been dissolved, as may be directed by the court in which the suit shall be pending.

§ 4. The court in which any suit or proceeding against a corporation which shall have been dissolved by the decree of the court of chancery, or by the expiration of its charter, or otherwise, shall be pending at the time of such dissolution, shall have power, on the application of either party thereto, to make an order for the continuance of such suit or proceeding, and the same may thereafter be continued until a final judgment or decree shall be had therein, which shall have the like effect upon the rights of the parties, as if such corporation had not been dissolved.

Power of
the court.

CHAP. 431.

AN ACT to subject moneyed or stock corporations to assessment for highway labor.

PASSED May 15, 1837.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In making the estimate and assessment of the residue of the highway labor to be performed in their town, after assessing at least one day's work upon each of the male inhabitants therein, above the age of twenty-one years, as provided in the sixteenth chapter of the first part of the Revised Statutes, entitled "of Highways and Bridges," the commissioners of highways shall include among the inhabitants of such town, among whom such residue is to be apportioned, all moneyed or stock corporations which shall appear on the last assessment roll of their town to have been assessed therein.

Corpora-
tions to be
assessed
for high-
way tax.

31 B., 139; 12 W., 390.

§ 2. Such corporations shall be notified to furnish the amount of highway labor assessed to them in the same manner as individuals residing in such town, by giving oral or written notice to the president, cashier, agents, treasurer or secretary of such corporation, or any clerk or other officer thereof, at the principal office or place of transacting the business or concerns of the said company, which labor shall be performed in such district or districts as the commissioners of highways of the town shall direct, and any number of days' work not exceeding fifty may be required to be performed by any such corporation in any one day.

How tax to
be collected

§ 3. Every such corporation may commute for the highway labor assessed upon it in the same manner and at the same rate as is allowed by law to individuals or by paying such commutation to a commissioner of highways of the town, and

Corpora-
tions may
commute.

PART I.

the commutation money so paid may be expended by the commissioners of highways upon any district or districts in the town : and for that purpose the said commissioners shall be entitled to demand and receive from the overseers to whom any such commutation may have been paid the whole or any portion thereof, but in every case where any such corporation shall be located in any city, village or town, where by law the road tax is now payable in money, the road tax imposed on any such corporation shall be paid in money, according to the provisions of the several laws affecting said city, village or town. 40 B., 371; 17 Ab., 63.

Penalties.

§ 4. Such corporations shall be liable to the same penalties for every day's work required, and for every default of any substitute sent by them, as is provided by law in the case of individuals required to work on highways, which shall be collected in the same manner, and paid over to the commissioners of highways of the town, by the constable collecting the same, and may be expended by them in the same manner as herein provided for the commutation money received from any such corporation. The summons issued by any justice according to this act, may be for any number of penalties incurred by any such corporation previous thereto, and may be served in the manner provided by law for the service of writs or summons issuing out of courts of record against corporations.

How to be collected.

§ 5. In case any such penalty cannot be collected as herein provided, the commissioners of highways of the town may file a bill in the court of chancery against any such delinquent corporation for the discovery and sequestration of its property; whereupon the same proceedings shall be had as are provided by law for the collection of county taxes assessed against incorporated companies; and the chancellor shall possess the like powers in respect to the same: and the said commissioners may also recover such penalties, or any number of them that may have been incurred, with costs, from such delinquent company in any court of record in this state.

Omissions, how to be rectified.

§ 6. Whenever the assessors of any town shall have omitted to assess any inhabitant or property in such town, the commissioners of highways shall assess the persons and property so omitted, and shall apportion highway labor upon such persons or property in the same manner as if they had been duly assessed upon the last assessment roll.

Powers of commissioners of highways.

§ 7. When by law the powers and duties of commissioners of highways are conferred and imposed upon other officers, they shall possess all the powers and perform all the duties in this act conferred or enjoined upon such commissioners, and the assessments under it for the present year shall be made before the first day of July next, by the commissioners of highways.

CHAP. 165.

AN ACT to compel transfer agents of foreign corporations to exhibit a list of the stockholders thereof.

PASSED April 11, 1842.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The transfer agent in this state of any moneyed or other corporation existing beyond the jurisdiction of this state, (whether such agent shall be a corporation or a natural person) shall at all reasonable times during the usual hours of transacting business, exhibit to any stockholder of such foreign corporation, when required by him, the transfer book of such foreign corporation and also a list of the stockholders thereof (if in their power so to do). Duty of agents.

§ 2. In case such transfer agent or any clerk or officer of such agent should refuse to exhibit such transfer book, or a list of the stockholders of such foreign corporation as aforesaid, he shall for every such offence forfeit the sum of two hundred and fifty dollars, to be recovered by the person to whom such refusal was made. Penalty.

CHAP. 197.

AN ACT to amend the law in relation to suits against foreign corporations.

PASSED April 11, 1842.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The rights or shares, which any foreign corporation may have or own in the stock of any bank, banking association, insurance company, or other company or corporation, together with the interests, rents and profits due and growing due thereon, and all trust property real or personal, funds, deposits, moneys or credits held by or due from any bank, insurance company, or other company or corporation, or individual in this state, for and in behalf or to such foreign corporation, shall be liable to be attached in actions at law, and levied upon and sold to satisfy any judgment and execution. Stocks, funds and property of foreign corporations may be attached.

10 B., 109; 4 H., 40.

§ 2. The execution of the attachment upon any such rights or shares, or trust property, funds, deposits, money, or credits shall be made by leaving a true and attested copy of the writ, by the officer serving the same, with his proper endorsement thereon, with the cashier of such bank, or with the secretary or clerk of such insurance company or other company or cor- Attachment how executed.

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poration, or with such individual holding such trust property, funds, deposits, moneys, or credits, and such rights or shares, together with the interest, rents and profits, or such trust funds, deposits, moneys, or credits, shall be holden to respond to the judgment which may be recovered in such action, or to satisfy such execution.

4 H., 40.

Sheriff to be furnished with amount of rights, shares, &c., by officers.

§ 3. Whenever a sheriff shall, with a writ of attachment or execution against a foreign corporation, apply to such cashier, secretary or clerk, or to such individual for the purpose of so attaching or levying upon such rights or shares, or such trust property, funds, deposits, moneys or credits, the cashier, secretary or clerk, or individual shall furnish him with a certificate under his hand, in his official capacity, if he be an officer, designating the number of rights or shares such foreign corporation holds in the stock of such bank, company or corporation, with the incumbrances thereon, if any there be, and the amount of the dividend due thereon, or the amount and description of such trust property, funds, deposits, moneys, or credits held by such company, corporation or individual for the benefit of such foreign corporation.

4 H., 40. Post, p. 681.

Duty of sheriff in case judgment be entered for plaintiff.

§ 4. In case judgment be entered for the plaintiff in any such suit the sheriff shall satisfy the same out of the property attached by him, if it shall be sufficient for that purpose:

1. By paying over to such plaintiff the proceeds of all sales of perishable property, and of any vessel or share, or interest in any vessel sold by him, or so much as shall be necessary to satisfy such judgment:

2. If any balance remains due and an execution shall have been issued on such judgment he shall proceed to sell under such execution so much of the attached property, real or personal, as may be necessary to satisfy such balance if enough for that purpose shall remain in his hands, and in case of the sale of any such property as is mentioned in the first section of this act, the sheriff shall execute to the purchaser a deed or bill of sale thereof, and the purchaser shall thereupon on demand be entitled to all such property, deposits, trust property, funds, moneys or credits, and all such rights and shares or stock, and shall have all the rights and privileges in respect thereto as were possessed by such foreign corporation:

3. If any of the attached property or effects belonging to such foreign corporation shall have passed out of the hands of such sheriff, by delivery or otherwise, without having been sold, such sheriff shall repossess himself of the same, and for that purpose he shall have all the authority which he had to seize the same under the attachment; and any person who shall wilfully conceal, withhold or detain any such property or effects from the said sheriff, shall be liable to double damages at the suit of the parties interested and injured.

4. Until the judgment against such foreign corporation shall be paid, such sheriff shall proceed to collect the notes, bills and other evidences of debt that may have been seized under such attachment, and to prosecute any bond which he may have taken in the course of such proceedings, and apply the proceeds thereof to the payment of such judgment, and when such judgment and all costs of the proceedings shall have been fully paid, the sheriff upon reasonable demand shall deliver over to such foreign corporation all the residue of such attached property, or the proceeds thereof.

§ 5. No default or judgment shall be taken in any such suit until the plaintiff shall file with the clerk of the court in which such suit shall be pending, evidence by affidavit or otherwise, that he has caused a notice to be published in the state paper, and in one newspaper printed in the county where such attachment shall have been executed at least once in each week, for twelve weeks successively, stating the issuing of the attachment, the names of the plaintiff, and of his attorney, and of the officer who issued the attachment, and the nature and amount of the demand claimed against such foreign corporation.

No default or judgment to be taken until after service of notice.

CHAP. 195.

AN ACT in relation to stocks in moneyed corporations held by the state or by literary or charitable institutions.

PASSED May 18, 1845.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any moneyed or stock corporation deriving profit or income from its capital or otherwise, shall add to the dividend which shall be declared upon any stock owned by the state or by any literary or charitable society or institution, a sum equal to the assessment for taxes paid upon an equal amount of the stock of such corporation not exempt from taxation.

Dividends to be made clear from taxes.

§ 2. The provisions of the sixth subdivision of the fourth section of the first title of chapter thirteen of the first part of the Revised Statutes, whereby all stocks owned by the state or by literary or charitable institutions, in moneyed or stock corporations, are exempted from taxation, are hereby declared to be for the benefit of the state or the institutions owning such stocks, and not for the benefit of the said corporations.

Benefit of exemption from taxation.

Ante, vol. 1, p. 361.
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CHAP. 234.

AN ACT to amend the law in relation to suits against Foreign Corporations.

PASSED May 13, 1845.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Provision
in case of
execution
being re-
turned un-
satisfied.

§ 1. After judgment rendered for the plaintiff in any snit commenced by attachment against a foreign corporation, and an execution issued thereon shall have been returned unsatisfied in part or in whole, the party suing out such execution, or in case of a nominal plaintiff, the person beneficially interested therein, may commence any snit or suits at law or in equity, either in his own name or in the name of said foreign corporation, against any debtor to the said corporation, or against the subscribers to its capital stock, shareholders or stockholders, or any or all of them, to compel the payment of any sum or sums of money not paid in, or remaining due upon each share of the capital stock subscribed or held by them, or any of them, or which may have been transferred with intent to avoid the payment of the said sum or sums of money; and may recover in such snit or suits any sums to the amount due the plaintiff or plaintiffs which such defendant or defendants could be liable to pay in any event in the state or government where such corporation is located.

26 N. Y., 138.

Suits
brought in
the name of
sheriff, how
carried on.

§ 2. The suits authorized to be brought by or in the name of the sheriff, by the act entitled "An act to amend the Revised Statutes in relation to proceedings against absent debtors and foreign corporations," passed May 14th, 1840, and by the act entitled "An act to amend the law in relation to suits against foreign corporations," passed April 11th, 1842, may be prosecuted by the attaching creditor or party beneficially interested in the attachment, by an attorney or solicitor to be employed by him, and at his costs and charges, upon delivering to the said sheriff a bond in the penalty of five hundred dollars, with two sureties, to be conditioned to indemnify and save the said sheriff harmless from all damages, costs and expenses of the said snit. The said sureties shall, in all cases wherein it shall be required by the sheriff, justify as good and sufficient sureties, by making an affidavit that each of them is a householder, worth double the amount of the penalty of the said bond, over and above all demands and liabilities, which justification shall be made before any officer authorized to take the justification of bail in the court out of which said attachment was issued, upon at least one day's notice, in writing, to such sheriff.

Ante, p. 677; vol. 2, p. 479.

CHAP. 53.

AN ACT to amend the act, entitled "An act to amend the law in relation to suits against foreign corporations."

PASSED February 21, 1848.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In case any cashier, secretary, clerk or individual, upon whom any sheriff shall serve any such attachment or execution, shall refuse to furnish him with the certificate required in and by the third section of the act passed April 11, 1842, entitled "An act to amend the law in relation to suits against foreign corporations," chapter one hundred and ninety-seven, then it shall be lawful for the plaintiff in such attachment or execution, to require the examination of such cashier, secretary, clerk or individual, before any officer of the court out of which said attachment or execution shall have issued.

Cashier, secretary or clerk, how to be examined.

§ 2. The provisions of sections twelve, thirteen, fourteen, fifteen and sixteen, of article eight of title first, chapter fifth, part second of the Revised Statutes, in relation to the mode of examining non-resident debtors, or persons indebted to them, or having property of theirs in his or their possession, shall apply to and govern the examinations authorised to be had in and by this act, so far as the same may be applicable.

Sections of R. S., applicable.

Ante, vol. 2, p. 44.

CHAP. 172.

AN ACT to prohibit corporations from interposing the defence of usury in any action.

PASSED April 6, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. No corporation shall hereafter interpose the defence of usury in any action.

Defence of usury not to be interposed.

17 N. Y., 52; 15 N. Y., 85.

§ 2. The term corporation, as used in this act, shall be construed to include all associations and joint stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships.

Definition of term corporation.

23 N. Y., 276; 30 B., 627; 28 B., 188; 17 B., 311; 35 N. Y., 65; 33 N. Y., 665.

CHAP. 321.

AN ACT authorising married women who may be members or stockholders of any incorporated company, to vote at elections of directors and trustees.

PASSED June 30, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be lawful for any married woman, being a stockholder or member of any bank, insurance company, (other than mutual fire insurance companies,) manufacturing company, or other institution incorporated under the laws of this state, to vote at any election for directors or trustees by proxy or otherwise, in such company of which she may be a stockholder or member.

CHAP. 71.

AN ACT to facilitate the collection of debts against corporations.

PASSED March 19, 1852.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Powers and
duties of re-
ceivers.

§ 1. Any receiver heretofore, or who shall hereafter be appointed by any court in this state, by virtue of section thirty-six, chapter eight, title four, article two, part three of the Revised Statutes of this state, shall have and possess all the rights, power and authority, and be subject to the same obligations and duties, as are provided in article third, title fourth, chapter eight, part third of the Revised Statutes of this state, in relation to receivers appointed in case of the voluntary dissolution of a corporation.

Thus amended by Laws of 1860, ch. 403. Ante, vol. 2, p. 482.

19 N. Y., 36; 18 N. Y., 597; 31 B., 175; 25 B., 467; 23 B., 666; 21 B., 608; 15 B., 266.

Receivers
to make as-
sessments
on premium
notes.

§ 2. In case the corporation, in regard to which a receiver has been or shall hereafter be appointed, is or shall be a mutual insurance company, such receiver shall have full power under the authority and sanction of the court appointing him, to make all such assessments on the premium notes belonging to such corporation, as may be necessary to pay the debts of such corporation, as by the charter thereof the directors of such corporation have authority to make; and the notice of such assessment may be given in the same manner as is provided in the charter of said company for the directors of said company to give; and the said receiver shall have the like rights

Notice of
assessment
to be given.

and remedies, upon and in consequence of the non-payment of such assessments, as are given to the corporation or the directors thereof by the charter of such corporation.

25 B., 113; 26 N. Y., 243; 25 How. P. R., 88.

§ 3. Such receiver is authorized to receive a voluntary surrender of all policies issued by such corporation, or to cancel the policies issued by such corporation, in all cases where by the charter of such corporation, the directors thereof are authorized to receive the surrender of, or cancel the policies issued by such corporation.

Surrender of policies.

§ 4. The court by which any such receiver may have been or shall be appointed, is authorized upon a proper action, instituted for that purpose by such receiver, to examine by a reference or otherwise, as it may deem proper into the proceedings and acts of such corporation; and if it shall appear upon such examination, that the directors or officers of such corporation, or either or any of them, have in any manner misapplied, or improperly disposed of the funds, property or effects of such corporation, it shall be lawful for such court to decree that such directors or officers of such corporation, as shall have been guilty of such misapplication or improper disposition of such funds, property or effects, to pay the same to such receiver, and to enforce such decree, by such process, as may be necessary to accomplish that object.

Receiver to examine acts of corporation.

CHAP. 603.

AN ACT to restrict and regulate the power of municipal corporations to borrow money, contract debts and loan their credit.

PASSED July 21, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. No municipal corporation shall in any manner hereafter loan or give its credit to or in aid of any individual, association or corporation.

Corporations not to loan its credit.

14 N. Y., 367.

§ 2. No municipal corporation of any city or village shall borrow money or contract debt, except in the manner herein provided; and every evidence of debt hereafter issued by any such corporation shall be void, unless issued in conformity to the provisions of this act.

Power to contract debts restricted.

§ 3. No municipal corporation of any city or village shall contract any debt, the amount of which shall, exclusive of the debt now owing by said corporation, exceed at any time a sum equal to five per cent, nor inclusive of such debt shall the same exceed eight per cent of the aggregate valuation of the real estate within its bounds, to be ascertained by the last

Amount of debts that may be contracted.

PART I.

corrected valuations of the assessors of such corporation, as established by the board of trustees, common council or board of supervisors, as the case may be.

Temporary
loans.

§ 4. No money shall be borrowed on temporary loan by any such municipal corporation, except in anticipation of the taxes of the current fiscal year, and the same shall always be made payable and shall be paid within eight months from the time in which such temporary loan is made.

Funded
debts, how
and when
contracted.

§ 5. No funded debt shall be contracted by any municipal corporation, unless it be for a specific object, to be expressly stated in the ordinance proposing the same, nor unless such ordinance shall have been passed by two-thirds of all the members elected to the common council or board of trustees of such corporation, and shall have been submitted to and approved of by a majority of the tax payers of any such city or village at a special election to be appointed for that purpose, by the said common council or board of trustees, nor unless the Legislature shall by law have ratified such ordinance, and shall have provided for levying and collecting, annually, a tax which shall be sufficient to pay the interest accruing upon the debt; and also an additional sum which shall be equal to at least five per cent of the total amount of the debt, which latter sum shall constitute a sinking fund for the redemption of the principal of the debt; and such sinking fund shall be and remain sacred and inviolate for that purpose, and the said annual tax shall be levied and collected, until sufficient is realized to pay and extinguish the principal of such funded debt, and the interest thereon. All the laws relating to the election of charter officers of any such corporation shall apply to every such election, held pursuant to this section, so far as the same are applicable.

Saving
clause.

§ 6. Nothing in this act contained shall be deemed to alter, repeal or modify any law now existing authorizing any municipal corporation to borrow money, contract debts and issue bonds, obligations or evidences of debts.

CHAP. 245.

AN ACT to amend, and in addition to the several acts relative to joint stock associations.

PASSED April 15, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

No dissolution
by
death of
shareholder

§ 1. Whenever in pursuance of its articles of association the property of any joint stock association is represented by shares of stock, it may be lawful for said associations to provide by their articles of association that the death of any stockholder or the assignment of his stock shall not work a dissolution of the association, but it shall continue as before.

nor shall such company be dissolved except by judgment of a court for fraud in its management or other good cause to such court shown, or in pursuance of its articles of association.

Number of managers.

§ 2. Said association may also, by said articles of association, provide that the shareholders may devolve upon any three or more of the partners the sole management of their business.

Limitation of act.

§ 3. This act shall in no court be construed to give said associations any rights and privileges as corporations.

CHAP. 279.

AN ACT to facilitate the service of process on Insurance and other corporations doing business in this State.

PASSED April 10, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Every insurance and other corporation created by the laws of any other state, doing business in this state, shall, within thirty days after the passage of this act, designate some person residing in each county where such corporation transacts business, on whom process issued by authority of, or under any law of this state may be served, and within the time aforesaid shall file such designation in the office of the secretary of state; and a copy of such designation, duly certified by said officer, shall be evidence of such appointment; and it shall be lawful to serve on such person so designated, any process issued as aforesaid; such service shall be made on such person in such manner as shall be prescribed in case of service required to be made on any resident of this state, and such service shall be deemed a valid service thereof.

Companies to designate a person to be served with process.

30 B., 162; 26 B., 151.

§ 2. In all cases where such designation shall not be made as aforesaid, and such foreign corporation cannot be served with such process according to the present provisions of law, it shall be lawful to serve such process on any person who shall be found within this state acting as the agent of said corporation, or doing business for them.

In case of omission.

§ 3. Service made in accordance with any provision of this act shall be as effectual as if made in the form and manner required by law, and shall be deemed a full compliance with any statute requiring personal or other service to be made.

Effect of such service.

§ 4. The term process in this act, shall be held and deemed to include any writ, summons, or order, whereby any action, suit or proceeding shall be commenced or which shall be issued in or upon any action, suit or proceeding, by any court, officer or magistrate.

Process, what it means.

CHAP. 39.

AN ACT to compel the attendance of witnesses before committees of common councils of cities, and to punish false swearing by such witnesses.

PASSED February 18, 1860; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

When witnesses may be subpoenaed.

Chairman of committee to administer oaths, &c.

Penalty for false swearing.

§ 1. Whenever the common council of any city within this state shall have appointed a committee of members of their body upon any subject or matter within the jurisdiction of such common council, or to examine any officer of the city in relation to the discharge of his official duties, or to the receipt or disbursement by him of any moneys in the discharge of said duties, or concerning the possession or disposition by him, in his official capacity, of any property belonging to the city; or to use, inspect or examine any book, account, voucher or document, in the possession or under his control as such officer, relating to the affairs or interests of such city; the chairman of any such committee is hereby authorized to administer oaths to all such witnesses as may appear or be brought before such committee; and every person who shall willfully and corruptly swear, testify, or affirm falsely, to any material matter, upon any oath or affirmation administered by the chairman of any such committee, upon any such investigation or inquiry, shall, upon conviction thereof, be adjudged guilty of perjury, and shall be punished in the manner prescribed by subdivision two of section two, of article first, title four, chapter one, part fourth of the Revised Statutes.

Non-resident witnesses.

§ 2. Upon application by the chairman or a majority of any such committee to a justice of the supreme court or to the county judge of the county in which the city is situated, or to the recorder of such city, and it satisfactorily appearing to such justice, judge or recorder, that the testimony of any witness named, residing in this state, is or may be material in such investigation or inquiry, such justice, judge or recorder, shall issue a summons to such witness, requiring him to appear before said committee to testify in the matter of such investigation or inquiry at a time and place, within such city, to be specified in said summons. Such summons shall be served by showing to the witness the original summons, under the hand of the officer issuing the same, and delivering to such witness a copy of the summons, or a ticket containing its substance, and paying to him the fees of witnesses in civil actions in courts of record.

Neglect of witness to attend.

§ 3. In case of the failure of any witness to attend, as directed in and by said summons, the justice or officer issuing the summons, upon due proof of the service thereof, and of

the failure of such witness to appear, or to produce such books and papers, according to the exigency of such subpoena, or shall refuse to testify before such committee, or to answer any question which a majority thereof shall decide to be proper and pertinent, he shall be deemed in contempt, and it shall be the duty of the said justice or officer to issue an attachment, in the form usual in the court of which he shall be judge, directed to the sheriff of the county where such witness was required to appear and testify, commanding the said sheriff to attach such person and forthwith bring him before the said justice or officer. On the return of the attachment, and the production of the body of the defendant, the said justice or officer shall have jurisdiction of the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed, and the same punishment inflicted, as in cases of a witness subpoenaed to appear and give evidence on the trial of a civil cause before a circuit or special term of the supreme court.

Attachment

Contempt.

§ 4. The act entitled "An act to enable the common council of the city of New York to take testimony in the matters referred for investigation or inquiry," passed February eighth, eighteen hundred and fifty-five, is hereby repealed.

Law re-
pealed.

CHAP. 60.

AN ACT to provide for the incorporation of religious societies.

PASSED April 5, 1813.

Be it enacted by the People of the State of New York, represented in Senate and Assembly:

§ 1. That it shall be lawful for the male persons of full age of any church or congregation in communion with the Protestant Episcopal church in this state, who shall have belonged to such church or congregation for the last twelve months preceding such election, and who shall have been baptized in the Episcopal church, or shall have been received therein either by the right of confirmation or by receiving the holy communion, or by purchasing or hiring a pew or seat in said church, or by some joint act of the parties and of the rector, whereby they shall have attached themselves to the Protestant Episcopal church, and not already incorporated, at any time to meet for the purpose of incorporating themselves under this act, and by a majority of voices, to elect two church wardens and eight vestrymen, and to determine on what day of the week called Easter week, the said offices of church wardens and vestrymen shall annually thereafter cease, and their successors in office be chosen; of which first election notice shall be given in the time of morning service on two Sundays

Protestant
Episcopal
churches,
how incor-
porated.

PART I.

previous thereto, by the rector, or if there be none, by any other person belonging to such church or congregation, and that the said rector, or if there be none, or he be necessarily absent, then one of the church wardens or vestrymen, or any other person called to the chair, shall preside at such first election, and together with two other persons, shall make a certificate under their hands and seals, of the church wardens and vestrymen so elected, of the day of Easter week so fixed on for the annual election of their successors, and of the name or title by which such church or congregation shall be known in law; which certificate being duly acknowledged, or proved by one or more of the subscribing witnesses, before the chancellor or one of the judges of the supreme court, or one of the judges of the court of common pleas of the county where such church or place of worship of such congregation shall be situated, shall be recorded by the clerk of such county in a book to be by him provided for that purpose, and that the church wardens and vestrymen so elected, and their successors in office of themselves, but if there be a rector, then together with the rector of such church or congregation, shall form a vestry, and be the trustees of such church or congregation; and such trustees and their successors shall thereupon by virtue of this act, be a body corporate by the name or title expressed in such certificate; and that the persons qualified as aforesaid shall, in every year thereafter, on the day in Easter week so to be fixed for that purpose, elect such church wardens and vestrymen, and whenever any vacancy shall happen before the stated annual election, by death or otherwise the said trustees shall appoint a time for holding an election to supply such vacancy, of which notice shall be given in the time of divine service, at least ten days previous thereto; and such election, and also the stated annual elections, shall be holden immediately after morning service, and at all such elections the rector, or if there be none, or he be absent, one of the church wardens or vestrymen shall preside and receive the votes of the electors, and be the returning officer, and shall enter the proceedings in the book of the minutes of the vestry, and sign his name thereto, and offer the same to as many of the electors present as he shall think fit, to be by them also signed and certified; and the church wardens and vestrymen to be chosen at any of the said elections, shall hold their offices until the expiration of the year for which they shall be chosen, and until others be chosen in their stead, and shall have power to call and induct a rector to such church or congregation as often as there shall be a vacancy therein: *Provided, however,* That no meeting or board of such trustees shall be held, unless at least three days' notice thereof shall be given in writing under the hand of the rector or one of the church wardens; and that no such board shall be competent to transact any business unless the rector, if there be one, and at least one of the church wardens and a majority of the vestrymen

Annual elections of church wardens and vestrymen, regulated.

Trustees, when and how to meet.

be present; and such rector, if there be one, and if not, then the church wardens present, or if both the church wardens be present, then the church warden who shall be called to the chair by a majority of voices, shall preside at every such meeting or board, and have the casting vote.

11 N. Y., 243; 23 B., 327, 436; 17 B., 103; 1 D., 388; 1 Ed., 308; 16 W., 605; 11 W., 604; 7 W., 378; 1 Hall, 191; 12 How. P. R., 497; 4 Ab., 182; 30 How. P. R., 461.

§ 2. *And be it further enacted*, That the minister or ministers and elders and deacons, and if during any time there be no minister, then the elders and deacons, during such time, of every Reformed Protestant Dutch church or congregation now or hereafter to be established in this state, and elected according to the rules and usages of such churches within this state, shall be the trustees for every such church or congregation; and it shall be lawful for the said trustees, if not already incorporated, to assemble together as soon as they shall deem it convenient, and execute under their hands and seals a certificate certifying the name or title by which they and their successors forever as a body corporate, by virtue of this act, shall be known and distinguished; which certificate being duly acknowledged or proved as aforesaid, shall be recorded by the clerk of such county in a book to be by him provided as aforesaid; and such trustees and their successors shall thereupon, by virtue of this act, be a body corporate by the name or title expressed in such certificate; and it shall be lawful for the trustees of any such church or congregation, elected by virtue of any former law of this state, by writing under their hands and seals, to be proved, acknowledged and recorded as aforesaid, to declare their will not to continue any longer a body corporate, and thereupon such body corporate shall cease, and all the estate, real and personal, held by them shall pass to and be vested in the trustees of such church or congregation, made a body corporate in the manner above directed: *Provided always*, That nothing herein contained shall be construed in any manner to impair or alter the rights of any of the chartered churches within this state.

11 N. Y., 243; 23 B., 327, 436; 9 B., 64; 10 Pai., 627; 7 Pai., 281; 1 D., 388; 1 S. Ch., 439; 1 Ed., 588; 11 W., 604; 7 W., 378; 2 J. O. R., 371; 3 J. R., 115, 135; 12 How. P. R., 497; 4 Ab., 182.

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67
656
§ 3. *And be it further enacted*, That it shall be lawful for the (male) persons of full age, belonging to any other church, congregation or religious society, now or hereafter to be established in this state, and not already incorporated, to assemble at the church, meeting-house, or other place where they stately attend for divine worship, and, by plurality of voices, to elect any number of discreet persons of their church, congregation or society, not less than three, nor exceeding nine in number, as trustees, to take the charge of the estate and property belonging thereto, and to transact all affairs relative to the temporalities thereof; and that at such election, every (male) person of full age, who has stately worshipped with

Trustees of
Protestant
Dutch
churches.

How they
may be in-
corporated.

How trust-
tees under
any former
law may
dissolve
their corpo-
ration.

The rights
of chartered
churches
saved.

Other reli-
gious socie-
ties how in-
corporated.

PART I.

such church, congregation or society, and has formerly been considered as belonging thereto, shall be entitled to vote, and the said election shall be conducted as follows: the minister of such church, congregation or society, or in case of his death or absence, one of the elders or deacons, church wardens or vestrymen thereof, and for want of such officers, any other person being a member or a stated hearer in such church, congregation or society, shall publicly notify the congregation of the time when, and place where, the said election shall be held, at least fifteen days before the day of election; that the said notification shall be given for two successive Sabbaths or days on which such church, congregation or society, shall statedly meet for public worship, preceding the day of election; that on the said day of election, two of the elders or church wardens, and if there be no such officers, then two of the members of the said church, congregation or society, to be nominated by a majority of the members present, shall preside at such election, receive the votes of the electors, be the judges of the qualifications of such electors, and the officers to return the names of the persons who, by plurality of voices, shall be elected to serve as trustees for the said church, congregation or society; and the said returning officers shall immediately thereafter certify, under their hands and seals, the names of the persons elected to serve as trustees for such church, congregation or society, in which certificate the name or title by which the said trustees and their successors shall forever thereafter be called and known, shall be particularly mentioned and described; which said certificate, being proved or acknowledged as above directed, shall be recorded as aforesaid; and such trustees and their successors shall also thereupon, by virtue of this act, be a body corporate, by the name or title expressed in such certificate; and the clerk of every county for recording every certificate of incorporation by virtue of this act, shall be entitled to seventy-five cents, and no more.

19 N. Y., 482; 11 N. Y., 243; 23 B., 327, 436; 9 B., 64; 1 Pal., 281; 3 Pal., 296; 2 S. Ch., 186; 2 D., 492; 11 W., 604; 7 W., 378; 3 J. R., 115, 135; 4 Ab., 182.

Powers of
the trustees
of churches.

§ 4. *And be it further enacted.* That the trustees of every church, congregation or society, herein above mentioned, and their successors, shall respectively have and use a common seal, and may renew and alter the same at their pleasure, and are hereby authorized and empowered to take into their possession and custody all the temporalities belonging to such church, congregation or society, whether the same consist of real or personal estate, and whether the same shall have been given, granted or devised, directly to such church, congregation or society, or to any other person for their use; and also, by their corporate name or title, to sue and be sued in all courts of law or equity, and to recover, hold and enjoy all the debts, demands, rights and privileges, and all churches, meeting-houses, parsonages and burying places, with the

appurtenances, and all estates belonging to such church, congregation or society, in whatsoever manner the same may have been acquired, or in whose name soever the same may be held, as fully and amply as if the right or title thereto had originally been vested in the said trustees; and also to purchase and hold other real and personal estate, and to demise, lease and improve the same, for the use of such church, congregation or society, or other pious uses, so as the whole real and personal estate of any such church, congregation or society, other than the corporation of the minister, elders and deacons of the Reformed Protestant Dutch church of the city of New York, and the first Presbyterian church of the city of New York, and the rector, church wardens and vestrymen of St. George's church in the city of New York, and of the minister, elders and deacons of the Reformed Dutch church in the city of Albany, shall not exceed the annual value or income of three thousand dollars; and of the said corporation of the minister, elders and deacons of the Reformed Protestant Dutch church of the city of New York, the annual value or income of nine thousand dollars; and of the said first Presbyterian church of the city of New York, the annual value or income of six thousand dollars; and of the said rector, church wardens and vestrymen of St. George's church in the city of New York, the annual value or income of six thousand dollars; and of the minister, elders and deacons of the Reformed Dutch church in the city of Albany, the annual value or income of ten thousand dollars; and also to repair and alter their churches or meeting-houses, and to erect others if necessary, and to erect dwelling-houses for the use of their ministers, and school-houses and other buildings for the use of such church, congregation or society; and such trustees shall also have power to make rules and orders for managing the temporal affairs of such church, congregation or society, and to dispose of all monies belonging thereto, and to regulate and order the renting the pews in their churches and meeting-houses, and the perquisites for the breaking of the ground in the cemetery or church yards, and in the said churches and meeting-houses for burying the dead, and all other matters relating to the temporal concerns and revenues of such church, congregation or society; and to appoint a clerk and treasurer of their board, and a collector to collect and receive the said rents and revenues, and to regulate the fees to be allowed to such clerk, treasurer and collector, and them or either of them to remove at pleasure, and appoint others in their stead; and such clerk shall enter all rules and orders made by such trustees, and payments ordered by them, in a book to be provided by them for that purpose.

Annua.
amount of
income, but
certain
churches
excepted.

The income
of those
churches
declared
and limited.

Further
powers of
trustees.

11 N. Y., 94; 8 N. Y., 525, 558; 17 B., 103; 9 B., 394; 8 B., 130; 2 B., 397; 3 Pal., 296; 1 Pal., 214; 4 S. Ch., 471; 2 S. Ch., 186; 1 S. Ch., 439; 3 Ed., 155; 2 Ed., 608; 1 Ed., 588; 2 D., 492; 9 W., 414; 6 Cow., 23; 3 S. S. C., 351; 1 Hall, 191; 3 J. R., 115, 135; 2 Cal. Ca., 337; 9 How. P. R., 232.

PART I.
Trustees,
except of
the Episco-
pal church-
es, to call
meetings.

§ 5. *And be it further enacted*, That it shall be lawful for any two of such trustees, other than the trustees mentioned in the first section of this act, or their successors, at any time to call a meeting of such trustees, and that a majority of the trustees of any church, congregation or society, mentioned in this act, being lawfully convened, shall be competent to do and perform all matters and things which such trustees are authorized or required to do and perform, and that all questions arising at any such meetings shall be determined by a majority of the trustees present, and in case of an equal division, the presiding trustee shall have a casting vote.

Trustees,
how long to
continue in
office.

Rotation in
office.

§ 6. *And be it further enacted*, That the trustees first chosen according to the third section of this act, shall continue in office for three years from the day of their election, and immediately after such election the said trustees shall be divided by lot into three classes, numbered one, two and three, and the seats of the members of the first class shall be vacated at the expiration of the first year, of the members of the second class at the expiration of the second year, and the members of the third class at the expiration of the third year, to the end that the third part of the whole number of trustees, as nearly as possible, may be annually chosen; and the said trustees, or a majority of them, shall at least one month before the expiration of the office of any of the said trustees, notify the same in writing to the minister, or in case of his death or absence, to the elders or church wardens, and in case there shall be no elders or church wardens, then to the deacons, or vestrymen of any such church, congregation or society, specifying the names of the trustees whose times will expire, and the said minister, or in case of his death or absence, one of the said elders or church wardens, or deacons or vestrymen shall, in manner aforesaid, proceed to notify the members of the said church, congregation or society, of such vacancies, and appoint the time and place for the election of new trustees to fill up the same, which election shall be held at least six days before such vacancies shall happen, and all such subsequent elections shall be held and conducted by the same persons, and in the manner above directed, and the result thereof certified by them, and such certificate shall entitle the persons elected to act as trustees, and in case any trustee shall die or refuse to act, or remove within the year, notice thereof shall be given by the trustees as aforesaid, and a new election appointed and held, and another trustee be elected in his stead, in manner aforesaid.

Election of
new trust-
tees.

Members
qualified
vote for
trustees.

§ 7. *And be it further enacted*, That no person belonging to any church, congregation or society, intended by the third section of this act, shall be entitled to vote at any election succeeding the first, until (he) shall have been a stated attendant on divine worship in the said church, congregation or society, at least one year before such election, and shall have contributed to the support of the said church, congregation

2-11-11

or society, according to the usages and customs thereof, and that the clerk to the said trustees shall keep a register of the names of all such persons as shall desire to become stated hearers in the said church, congregation or society, and shall therein note the time when such request was made, and the said clerk shall attend all such subsequent elections, in order to test the qualifications of such electors, in case the same should be questioned.

31 N. Y., 559.

§ 8. *And be it further enacted*, That nothing in this act contained shall be construed or taken to give to any trustee of any church, congregation or society, the power to fix or ascertain any salary to be paid to any minister thereof, but the same shall be ascertained by a majority of persons entitled to elect trustees, at a meeting to be called for that purpose, and such salaries, when fixed, shall be ratified by the said trustees, or a majority of them, by an instrument in writing under their common seal, which salary shall thereupon be paid by the said trustees out of the revenues of such church, congregation or society.

Salaries of ministers, how ascertained and paid.

31 B., 49; 6 H., 530; 5 S. S. C., 666; 3 E. D. S., 60; 4 Ed., 223; 10 J. R., 207.

§ 9. *And be it further enacted*, That whenever any religious corporation within this state, other than the chartered corporations, shall deem it necessary and for the interest of such religious corporation to reduce or to increase their number of trustees, that it shall and may be lawful for any such religious corporation to reduce or to increase their number of trustees at any annual meeting: *Provided*, that such reduction or increase shall not be such as to have a less number than three or a larger number than nine trustees in any one of the said religious corporations; *provided*, that a notice of at least two weeks shall be given, at a regular meeting of such society, of the time and place of holding any meeting at which any such reduction or increase may be proposed.

Trustees may be reduced in number to three.

As amended by Laws of 1866, ch. 414. Post, vol. 6, p. 734.
18 N. Y., 395.

§ 10. *And be it further enacted*, That the treasurer of every religious corporation, singly, or the trustees or persons entrusted with the care and management of the temporalities of any church, congregation or religious society already incorporated, by virtue of any act of the legislature, or which may hereafter be incorporated in the cities of New York, Albany or Schenectady, or a majority of them respectively, shall, once in every three years, and between the first day of January and the first day of April triennially, to be computed from the first day of January last, exhibit upon oath to the chancellor, or to one of the justices of the supreme court, or any of the judges of the court of common pleas in the county where such church, congregation or society shall be situated, an account and inventory of all the estate, both real and personal, belonging at the time of making such oath to the church, congregation or society, for which they respectively are trustees or managers as aforesaid, together with an account of the annual revenue arising therefrom; and if any such trustees or persons entrusted as aforesaid, shall neglect to exhibit such account and inventory for the space of six

Corporations in New York, Albany and Schenectady, to exhibit account of estate and revenue.

PART I.

When corporation to forfeit their rights for not accounting.

Chancellor may permit a corporation to sell its real estate.

Proviso.

Revenue of churches limited.

Former corporations confirmed.

Or how re-incorporated if dissolved.

years, after the expiration of every three years as aforesaid, and shall not then exhibit the same, and procure a certificate to be endorsed thereon by the chancellor or judge, that he is satisfied that the annual revenue arising from the real and personal estate of such corporation does not, nor has not for the six preceding years, exceeded the sum which by law it is allowed to receive, then such trustees or persons entrusted as aforesaid, shall cease to be a body corporate: and in every case where it shall appear from such account and inventory, that the annual revenue of any church, congregation or religious society in either of the said cities, exceeds the sum which by virtue of any charter or law they may or can respectively hold and enjoy, it shall be the duty of the chancellor, justice or judge before whom the same shall be so exhibited, to report the same, together with such account and inventory, to the legislature at their next meeting.

§ 11. *And be it further enacted*, That it shall be lawful for the chancellor of this state, upon the application of any religious corporation, in case he shall deem it proper, to make an order for the sale of any real estate belonging to such corporation, and to direct the application of the monies arising therefrom by the said corporation to such uses as the same corporation, with the consent and approbation of the chancellor, shall conceive to be most for the interest of the society to which the real estate so sold did belong: *Provided*, That this act shall not extend to any of the lands granted by this state for the support of the gospel.

18 N. Y., 395; 3 N. Y., 238; 27 B., 52; 23 B., 327; 18 B., 35; 16 B., 237; 9 B., 99; 8 B., 130; 3 B. Ch., 119; 7 Pai., 77; 16 W., 28; 6 Cow., 594; 3 Ed., 155; 4 Ab., 182; 14 Ab., 424.

§ 12. *And be it further enacted*, That it shall be lawful for every religious corporation created by letters patent under the great seal of the colony of New York, to have, hold, and enjoy lands, tenements, goods and chattels of the yearly value of three thousand dollars, although the letters patent by which such corporation was created, shall contain a clause or clauses restricting and limiting the annual revenue and income of such corporation to a less sum than the said three thousand dollars.

§ 13. *And be it further enacted*, That every corporation of any church, congregation or religious society heretofore made in pursuance of any law of this state, and in conformity to the directions contained in this act, shall be, and the same is hereby established and confirmed, and such corporation shall be deemed to have commenced from the time of recording such certificate as aforesaid; and in case of the dissolution of any such corporation, or of any corporation hereafter to be formed in pursuance of this act, by reason of a non-compliance with the direction herein contained, the same may be re-incorporated in the manner prescribed in this act, at any time within six years after such dissolution, and thereupon all the

estate real and personal formerly belonging to the same, shall vest in such corporation, as if the same had not been dissolved: *Provided*, That in such case the said account and inventory required to be exhibited by such corporation in the cities of New York, Albany and Schenectady, shall be exhibited within one month after such re-incorporation, and triennially thereafter, as above directed.

§ 14. *And be it further enacted*, That the corporation of the Methodist Episcopal church, in the city of New York, shall be, and hereby are authorized to continue to elect nine trustees of the said corporation, in the same manner as if that number of trustees had originally been named in the certificate of incorporation, and such trustees shall be classed, or continue to be classed in the manner prescribed by the sixth section of this act.

Certain rights of Methodist Episcopal church in New York.

§ 15. *And be it further enacted*, That no religious corporation shall be deemed to be dissolved for any neglect hitherto, to exhibit an account or inventory of its real or personal estate, and the annual income thereof, nor for having held or hereafter holding elections of church officers on days before or after any moveable feast observed by such church, the intervening time between such elections being more than a solar year: *Provided*, That such account or inventory shall be exhibited within two years after the passing of this act, and that previous public notice be given to the congregation of the time and place of holding such elections.

Certain acts and neglects not deemed a dissolution of corporation.

Proviso.

§ 16. *And be it further enacted*, That whenever any religious corporation shall be dissolved by means of any non-user or neglect to exercise any of the powers necessary for its preservation, it shall be lawful for the religious society which was connected with such corporation to re-incorporate itself in the mode prescribed by this act, and that thereupon all the real and personal property which did belong to such dissolved corporation at the time of its dissolution, shall vest in such new corporation for the said society.

If corporation be dissolved, it may be re-incorporated under this act.

For additional sections to this act see Laws of 1863, ch. 45. Post, vol. 6, p. 54.

CHAP. 1.

AN ACT to alter the name of the corporation of Trinity Church in New York, and for other purposes.

PASSED January 25, 1814.

[§ 1, 2, 3, 4, 5 are local.]

§ 6. *And be it further enacted*, That in every case where a church or religious society which has been or may be duly incorporated shall have exhibited such account and inventory as is specified in the ninth section of the act, entitled "An act to provide for the incorporation of religious societies," it shall not be necessary for such church or society again to exhibit any account and inventory unless the said church or society

No religious society bound to file an inventory unless they acquire additional property

PART I.

subsequently to such exhibition shall have purchased or acquired any lands, tenements or hereditaments within this state, any act, law or usage to the contrary notwithstanding: *Provided always*, That nothing in this act contained shall be construed to affect, or defeat the right of any person or persons or of any body corporate to the estate real or personal now held, occupied or enjoyed by the corporation of Trinity church.

CHAP. 33.

AN ACT to amend the act, entitled "An act to provide for the incorporation of religious societies."

PASSED March 5, 1819.

Episcopal
churches
may be in-
corporated.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly*, That it shall be lawful for the male persons, of full age, belonging to any church, congregation or religious society in which divine worship shall be celebrated according to the rites of the Protestant Episcopal church in this state, and not already incorporated, at any time to meet for the purpose of incorporating themselves, and of electing church wardens and vestrymen, and to proceed to make such election, and to effect such incorporation in like manner as by the first section of the act hereby amended is authorized to be done by persons possessing the qualifications therein specified: *Provided*, That no person not possessing those qualifications shall be permitted to vote at any subsequent election of church wardens and vestrymen.

Former
churches
ratified.

§ 2. *And be it further enacted*, That all incorporations of churches or congregations heretofore formed or made under the first section of the act hereby amended, although by persons who may not have belonged to such churches or congregations for the last twelve months then preceding, shall be deemed valid and effectual, in like manner, as if formed or made by persons qualified according to the provisions of the same section.

Amount of
property.

§ 3. *And be it further enacted*, That it shall be lawful for each and every of the religious incorporations created, or to be created, within the city of New York in pursuance of this act, or of the act hereby amended, to take and hold real and personal estate of the annual value or income of six thousand dollars, any thing contained in the fourth section of the act hereby amended to the contrary notwithstanding.

CHAP. 187.

AN ACT supplementary to the act, entitled "An act to provide for the incorporation of religious societies," passed April 5th, 1813.

PASSED April 12, 1822.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That the minister or ministers, and elders and deacons, and if during any time there shall be no minister, then the elders and deacons, during such time, of every reformed Presbyterian church or congregation, elected according to the rules, constitution and usages of the reformed Presbyterian church now or hereafter to be established within this state, shall be the trustees for every such church or congregation; and it shall be lawful for the said trustees, if not already incorporated, to assemble together as soon as they shall deem it convenient, and execute under their hands and seals, a certificate, stating the name and title by which they and their successors in office, forever, as a body corporate, by virtue of this act, shall be known and distinguished, which certificate shall be duly acknowledged or proved in the manner directed by the "Act to provide for the incorporation of religious societies," with regard to the certificates of other religious societies incorporated under the said act, and shall be thereupon recorded by the clerk of the county in which such church or congregation is established, in the book by him provided according to the direction of the aforesaid act; and such trustees and their successors shall thereupon, by virtue of this act, be a body corporate, by the name or title expressed in such certificate: and such trustees and their successors so elected and incorporated, shall, by and in such name or title, have, hold, possess and enjoy, all and singular the rights, liberties, powers and privileges, and be subject to all the duties and limitations of trustees, mentioned and prescribed in and by the aforesaid act, to which this act is supplementary, and may hold property in the manner and to the amount therein prescribed, with regard to the religious societies incorporated under that act: *Provided,* That they shall not at any time determine or alter the minister's salary, or the annual rent of pews, but that the same shall be always subject to the vote of the congregation, any thing in this act, or in the act to which this is supplementary, to the contrary notwithstanding.

Reformed
Presbyteri-
an church.

Proviso.

CHAP. 303.

AN ACT to amend an act, passed April 5, 1813, entitled
 "An act to provide for the incorporation of religious
 societies."

PASSED April 21, 1825.

Act extend-
 ed to cer-
 tain church-
 es.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That the churches or congregations in this state, in connexion with the church which has styled itself the true reformed Dutch church in the United States of America, may incorporate themselves in the mode prescribed in and by the second section of the act, entitled "An act to provide for the incorporation of religious societies," passed April 5, 1813. Ante, p. 687.

CHAP. 47.

AN ACT to amend an act entitled "An act to provide for the incorporation of religious societies" passed April 5, 1813.

PASSED February 15, 1826.

Religious
 societies
 not dissolv-
 ed for omit-
 ting to ap-
 point trust-
 ees.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That if any church, congregation, or religious society, now or hereafter to be incorporated, according to the provisions of the third section of the act hereby amended, shall neglect or omit, or have neglected or omitted at their stated annual election, to choose any one of the three classes of trustees as mentioned in the sixth section of the said act, the said church, congregation, or religious society, shall not be deemed and taken to be thereby dissolved, but the trustees then or now already chosen, shall continue to hold their offices, until others be chosen in their stead: and whenever such neglect or omission shall happen, through defect of due notice or otherwise, the trustees of said church, congregation, or religious society, or a majority of them, shall immediately thereafter give notice thereof in writing, to the minister, or in case of his death or absence, to the elders or church wardens, and in case there shall be no elders or church wardens, then to the deacons or vestrymen of any such church, congregation or society; and the said minister, or in case of his death or absence, one of the said elders or church wardens, deacons or vestrymen, shall, in the manner prescribed in the third section of the said act, proceed to notify the members of the said church, congregation, or society, of such neglect or omission, and appoint the time and place for the election of new trustees to remedy the same; of which election, at least fifteen days' notice shall be

Notice for
 election of
 trustees in
 certain
 cases, how
 given.

given in the manner aforesaid. And the said election shall be held and conducted by the same persons, in the same manner, and the result be certified in like manner as is prescribed in and by the sixth section of the act hereby amended, and shall have the same force and effect as elections held under and by virtue of said section, and not otherwise.

1 D., 394.

§ 2. *And be it further enacted*, That whenever there shall have been any omission or neglect of any church, congregation or religious society, at their stated annual meeting, to choose any of the trustees, church wardens, vestrymen or other officers, according to the provisions of the act hereby amended, such church, congregation or religious society, shall not be deemed or taken to have been thereby dissolved; but the trustees, church wardens, vestrymen or other officers then in office at the time of such omission, shall be deemed and taken to be legal officers of such church, congregation or society: *Provided*, That elections to supply such omissions shall be made within one year after the passing of this act.

Society not dissolved for neglecting to appoint officers.

§ 3. *And be it further enacted*, That it shall be lawful for the members of any church, congregation or society, qualified to vote for trustees, wardens or vestrymen, or a majority of them, at any stated annual meeting of the said members, to appoint and fix any day in the succeeding year, as the day on which the election of officers of such church, congregation or society shall be held; and the elections held on such day shall be as valid to all intents and purposes as if the same had been made on the days formerly appointed for that purpose: and in case elections shall not be held on the days so appointed, it shall be the duty of the trustees, church wardens or vestrymen, then in office, to give the notice prescribed in the first section of this act, and to proceed according to the provisions thereof, to an election to supply all vacancies then existing.

Proviso.

Voters of society may fix day for election of officers.

CHAP. 90.

AN ACT to amend the charter of the Minister, Elders and Deacons of the Second Protestant Reformed Dutch church in the city of Albany.

PASSED April 15, 1835.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

[Section 1 to 7 local.]

§ 8. Any of the churches in this state in connection with the Reformed Protestant Dutch church, whose temporal affairs are under the management of a consistory or board of officers elected or chosen from such persons only as are in communion with the said church, may, if the said consistory

Other churches may elect trustees.

PART I.

or board so determine, at any time hereafter confide the management and care of the temporal concerns of the said church to a board of trustees, not less than seven nor more than nine, in number: and such determination shall be reduced to writing, and signed by the president and secretary or clerk of said board, with the seal of the said corporation (if any) thereto affixed, and shall be acknowledged by said president before some person authorised to take the acknowledgment of deeds, and be recorded in the office of the county clerk of the county in which such church shall be situated, in the book of records relative to religious incorporations, or other proper book of records; and thereupon such proceedings shall be taken for the election of the said board of trustees, and they shall be chosen on the same notice, in the same manner, out of the same body, by the same persons, shall have their election certified in the same manner, continue in office for the same term, their successors be elected in like manner, and shall have, possess and enjoy the same rights, powers and privileges, and be subject to the like obligations, and shall act in concurrence with the consistory of such church in the choice of minister, and in all respects be a board of trustees with the same rights and powers, and have the like control of the property and temporal affairs of the church, as the board intended to be constituted by the previous sections of this act.

And may
change the
name there-
of.

§ 9. If the said board of trustees that may so be elected by any other church in communion with the Reformed Dutch Church, shall deem it necessary or proper to change the corporate name, of said church to that of a Reformed Dutch Church, with such further designation as may be necessary in consequence of the change effected in its organization by the election of a board of trustees as aforesaid, they shall be at liberty so to do, and certify such their determination in proper form, under the signature of their president, which shall be acknowledged by him before some officer authorized to take the acknowledgment of deeds, and be recorded in the same manner as the certificate referred to in the last section; and thereupon such corporation shall be known and distinguished by the corporate name and style that may have been determined upon and expressed in said certificate.

Other
churches.

§ 10. Any church in connection with the Reformed Protestant Dutch Church in this state, the choice or election of the members of whose consistory is not subject to the ecclesiastical rules or jurisdiction of said church, may at any time, on the determination and resolve of the said consistory to that effect, be made subject to such rules and jurisdiction, and thenceforth the choice of members of the said consistory shall be made in accordance with such rules and the practice of the said Dutch church.

Right to
repeal

§ 11. This act is passed subject to the power of the legislature to alter, amend or repeal the same at their pleasure.

CHAP. 153.

AN ACT concerning the acquisition of Burial Places by religious Corporations in the City of New York.

PASSED April 11, 1842, by a two-third vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any incorporated religious society within the city of New York, which, having exhibited the account and inventory required by the tenth section of the act entitled "An act to provide for the incorporation of religious societies," has not since purchased or acquired lands or tenements within this state, may hereafter purchase, acquire and hold land in the city and county of New York, or in any neighboring county of this state, or any estate or interest in such land, for the purpose of a burial place or cemetery, and may erect thereon a suitable edifice in which to perform the religious services usual on the burial of the dead, and also necessary buildings for the residence and accommodation of grave diggers and keepers of the grounds; and whilst and so long as such land shall not be appropriated and applied to any other purpose, such corporation shall not, by reason of the purchase or acquisition thereof, become bound or liable again to exhibit an account or inventory of its estates, unless it shall subsequently purchase or acquire other lands or tenements within this state.

Societies may acquire land for cemeteries.

See Laws of 1850, ch. 122.

§ 2. If any land so to be purchased or acquired by any such religious corporation, shall be subsequently appropriated or applied to any use or purpose other than as is hereby authorized, every such corporation which shall so otherwise appropriate or apply the same, or suffer it to be so otherwise appropriated or applied, shall thenceforth be subject to the provisions of the tenth section of the above mentioned act, in the same manner as if this act had not been passed.

Restriction

CHAP. 158.

AN ACT to amend an act entitled "An act to provide for the incorporation of Religious Societies," passed April 5, 1813.

PASSED April 16, 1844, by a two-third vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Certificates of incorporation authorized by the "Act to provide for the incorporation of Religious Societies," passed April 5, 1813, which shall be hereafter made or executed, may

Certificates how acknowledged

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be acknowledged or proved before any officer authorized to take acknowledgments or proofs of conveyances of real estate, and in the same manner and of the like effect; and upon being so acknowledged or proved, shall be entitled to be recorded as in said act provided.

9 B., 86.

Certificates
heretofore
acknow-
ledged.

§ 2. All such certificates which have been heretofore acknowledged or proved before any officer authorized to take acknowledgments or proofs of conveyances of real estate shall, and are hereby declared to be of the same force and validity as if the same had been acknowledged or proved before any one of the officers named in the first section of the act hereby amended; but nothing herein contained shall be construed to impair or affect the rights of any person or persons in any case where any legal proceedings shall be instituted for enforcing such rights, before the passage of this act.

Saving
clause.

§ 3. Whenever there shall have been any omission or neglect of any church or congregation, or religious society at their stated annual meeting to choose any of the trustees, church wardens, vestrymen, or other officers, such church, congregation or religious society, shall not be deemed or taken to have been thereby dissolved, but the trustees, church wardens, vestrymen, or other officers in office, at the time of such omission, shall be deemed and taken to be the legal officers of such church, congregation or society, and shall continue to hold their offices until others be chosen in their stead: provided, that elections to supply such omissions shall be made within one year after their occurrence respectively, or within one year after the passage of this act.

Ante, p. 687.

CHAP. 122.

AN ACT to amend the act entitled "An act to provide for the incorporation of religious societies," passed April 5, 1813, and the several acts amendatory thereof.

PASSED March 30, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Omission to
make re-
port.

§ 1. No church or religious society, now incorporated, shall be deemed dissolved, nor shall any of its rights or privileges be impaired or affected by reason of the trustees, or other persons intrusted with the management of its temporalities, having omitted to exhibit an account and inventory of the real and personal estate belonging to such church or society, or of the annual income or revenue arising therefrom; and any forfeiture incurred by reason of any such omission, is hereby waived and discharged; and no such account and inventory shall hereafter be required from any incorporated

church or religious society, unless the annual income of its property shall exceed six thousand dollars.

§ 2. Whenever any religious corporation incorporated under the "Act to provide for the incorporation of religious societies," passed April fifth, eighteen hundred and thirteen, or by any special charter, shall deem it necessary or expedient for the accommodation of its members in consequence of their number or dispersed habitations or otherwise, to increase the facilities of public worship, the vestry or trustees thereof may purchase and hold grounds in the same village, town or city, and may erect thereon suitable associate houses or churches, or convenient chapels, and also at the same time or thereafter, purchase and hold other grounds for the purpose, and erecting thereon suitable school houses for Sunday or parochial schools of the said associate meeting houses, or churches, or chapels, or may hire or purchase and hold any such grounds, with suitable buildings already erected thereon for the like purpose, notwithstanding any restriction contained in the said act, or in any such charter; and the persons statedly worshipping in any such associate meeting house or church, or in said chapel, may, with the consent of the vestry or trustees of said corporation, be separately organized and incorporated.

Corporation may increase their facilities for public worship

So amended by Laws of 1860, ch. 235.

§ 3. The authority given by the "Act concerning the acquisition of burial places by religious corporations in the city of New York," passed April 11, 1842, to purchase, acquire, and hold land for the purpose of a burial ground or cemetery, and to erect thereon suitable buildings for purposes connected with the burial of the dead, is hereby extended to religious corporations in every part of the state; and such purchases heretofore made or hereafter made in the city of New York or elsewhere, and the erection of buildings thereon, as authorized by the said act, are hereby confirmed and declared valid, notwithstanding any restriction contained or supposed to be contained in the "Act to provide for the incorporation of religious societies," passed April 5, 1813, or in any special charter of any such corporation. Ante, pp. 687, 701.

Extended to all the state.

CHAP. 323.

AN ACT to authorize religious corporations to change their names.

PASSED June 4, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any religious corporation incorporated under the laws of this state may make the application for a change of its corporate name in the manner provided in the act entitled "An act to authorize persons to change their names," passed

Corporations may change their name

PART I.

December 14, 1847, which application shall be made to any of the officers designated in the first section of said act, within the county in which said corporation was so originally incorporated and is located, and upon such proceedings may obtain an order authorizing the assumption by such corporation of a new name, and upon fully complying with the requirements of said act shall be known by such new and assumed name, and by no other.

Order allowing change of name.

§ 2. The officer to whom such application shall be made shall also be authorized to grant an order allowing any such religious corporation to assume such other and new name, not previously assumed by any other existing religious corporation, on being satisfied by the petition presented to him therefor, verified by oath or by affidavit, that the name of such corporation, by reason of the change of its location or place of worship, or of the name of the place in which its place of worship is situated, or any other change of the circumstances with reference to which its name was adopted, has become incongruous or inconvenient, or that the location or character of such corporation will be more correctly or effectually designated by such change of name. Post, Vol. 4, p. 285.

CHAP. 218.

AN ACT for the incorporation of societies to establish free churches.

PASSED April 13, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Corporation, how formed.

§ 1. Any seven or more persons of full age, citizens of the United States, and a majority of them being residents of this state, who shall associate themselves for the purpose of founding and continuing one or more free churches, may make, sign and acknowledge, before any officer authorized to take the acknowledgment of deeds of land to be recorded in this state, and may file in the office of the secretary of state, and also of the clerk of the county in which any such church is to be established, a certificate in writing, in which shall be stated the name or title by which such society shall be known in the law, the purpose of its organization, and the names of seven trustees, of whom not less than five shall be persons who are not ministers of the gospel or priests of any denomination, to manage the same; but such certificate shall not be filed, unless with the written consent and approbation of a justice of the supreme court of the district in which any such church shall be intended to be established, or in the city of New York of a judge of the superior court of the said city, to be endorsed on such certificate.

Rights, powers and limitations.

§ 2. Upon the filing of such certificate, the persons named therein as trustees, and their successors, being citizens of the

United States and residents of this state, shall be a body politic and corporate, with all the rights, powers and duties, and subject to all the restrictions and obligations and other provisions, so far as the same may be applicable and consistent with this act, specified and contained in the act entitled "An act for the incorporation of benevolent, charitable, scientific and missionary societies," passed April 12, 1848, and the act amending the same, passed April 7, 1849, except that the limitation in the first of the said acts of the value of the real estate that may be held by any society in the city or county of New York, incorporated under this act, shall not be applicable to any church edifice erected or owned by such society, or the lot of ground on which the same may be built; and except that the provision in the first of the said acts, in relation to the personal liability of the trustees, shall be applicable only to the trustees who shall have assented to the creation of any debt.

§ 3. Any vacancies occurring in the said board of trustees shall be supplied by the remaining trustees at any legal meeting of the members; but there shall always be at least five members of the board who are not ministers of the gospel, or priests of any denomination. Vacancies.

§ 4. The seats and pews in every church, building or edifice, owned or occupied by any corporation organized under this act, shall be forever free for the occupation and use, during public worship, of all persons choosing to occupy the same, and conducting themselves with propriety, and no rent, charge or exaction shall ever be made or demanded for such occupation or use; nor shall any real estate belonging to any such corporation be sold or mortgaged by the trustees thereof, unless by the direction of the supreme court, to be given in the same manner and in the like cases as provided by law in relation to religious incorporations. Seats and pews to be free.

CHAP. 319.

AN ACT for the incorporation of benevolent, charitable, scientific and missionary societies.

PASSED April 12, 1848.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any five or more persons, of full age, citizens of the United States, a majority of whom shall be citizens of, and residents within this state, who shall desire to associate themselves together for benevolent, charitable, literary, scientific, missionary, or mission, or other Sabbath school purposes, may make, sign, and acknowledge, before any person authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of Societies, how formed

PART I.

the clerk of the county in which the business of such society is to be conducted, certificates in writing, in which shall be stated the name or title by which such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and the names of the trustors, directors, or managers of such society for the first year of its existence; but such certificate shall not be filed, unless by the written consent and approbation of one of the justices of the supreme court of the district in which the place of business or principal office of such society shall be located, to be indorsed on such certificate.

Thus amended by Laws of 1861, ch. 239.
17 B., 106; 9 B., 99; 24 How. P. R., 216.

When to become bodies politic and corporate.

§ 2. Upon filing a certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their successors may have and use a common seal, and the same may alter and change at pleasure; and they and their successors, by their corporate name, shall, in law, be capable of taking, receiving, purchasing and holding real estate, for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of fifty thousand dollars in value, and personal estate, for like purposes, to an amount not exceeding the sum of seventy-five thousand dollars in value, but the clear annual income of such real and personal estate shall not exceed the sum of ten thousand dollars; to make by-laws for the management of its affairs, not inconsistent with the constitution and laws of this state, or of the United States; to elect and appoint the officers and agents of such society, for the management of its business, and to allow them a suitable compensation.

Election of trustees, &c.

§ 3. The society, so incorporated, may annually elect, from its members, its trustees, directors or managers, at such time and place, and in such manner as may be specified in its by-laws, who shall have the control and management of the affairs and funds of said society, a majority of whom shall be a quorum for the transaction of business, if not otherwise provided in the by-laws, except that no such purchase, lease, or sale of real estate shall be made unless two-thirds of the whole number are present at the meeting at which it is ordered: and whenever any vacancy shall happen among such trustees, directors or managers, by death, resignation, or neglect to serve, such vacancy shall be filled in such manner as shall be provided by the by-laws of such society.

Thus amended by Laws of 1853, ch. 487.

§ 4. In case it shall at any time happen that an election of trustees, directors or managers shall not be made on the day designated by the by-laws, said society for that cause shall not be dissolved, but it shall and may be lawful on any other day to hold an election for trustees, directors or managers, in such manner as may be directed by the by-laws of such society.

CH. XVIII.
Provision
in case no
election is
made.

§ 5. The provisions of this act shall not extend or apply to any association or individuals, who shall, in the certificate filed with the secretary of state, or with the county clerk, use or specify a name or style the same as that of any previously existing incorporated society in this state.

Restriction

Thus amended by Laws of 1861, ch. 239.

§ 6. Any corporation formed under this act, shall be capable of taking, holding or receiving any property, real or personal, by virtue of any devise or bequest contained in any last will or testament of any person whatsoever, the clear annual income of which devise or bequest shall not exceed the sum of ten thousand dollars; provided, no person leaving a wife or child or parent, shall devise or bequeath to such institution or corporation more than one-fourth of his or her estate, after the payment of his or her debts, and such devise or bequest shall be valid to the extent of such one-fourth, and no such devise or bequest shall be valid, in any will which shall not have been made and executed at least two months before the death of the testator.

Real or per-
sonal prop-
erty may
be held, &c.

Proviso.

27 B., 304. See act relating to wills, vol. 4, p. 504.

§ 7. The trustees of any company or corporation organized under the provisions of this act, present at any meeting authorizing the contraction of any debt, and acquiescing in the passage of any resolution or order authorizing the same, shall be jointly and severally liable for any such debt, provided, a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

Liability o
trustees.

Thus amended by Laws of 1863, ch. 487.

§ 8. All institutions formed under this act, together with their books and vouchers, shall be subject to the visitation and inspection of the justices of the supreme court, or by any person or persons who shall be appointed by the supreme court for that purpose, and it shall be the duty of the trustees, or a majority of them, in the month of December in each year, to make and file in the county clerk's office where the original certificate is filed, a certificate under their hands, stating the names of the trustees and officers of such association or corporation, with an inventory of the property, effects and liabilities thereof, with an affidavit of the truth of such certificate and inventory, and also an affidavit that such association or corporation has not been engaged directly or indirectly, in any other business than such as is set forth in the original certificate on file. 34 N. Y., 613.

Institu-
tions sub-
ject to vis-
itation by
justices of
supreme
court.

PART I.
General
powers.

§ 9. Every corporation formed under this act shall possess the powers and be subject to the provisions and restrictions contained in the third title of the eighteenth chapter of the first part of the Revised Statutes.

So amended by Laws of 1849, ch. 273; § B., 99.

Right to
repeal.

§ 10. The legislature may at any time amend, annul or repeal any incorporation formed or created under this act.

CHAP. 273.

AN ACT to amend "An act for the incorporation of benevolent, charitable, scientific and missionary societies," passed April 12, 1848.

PASSED April 7, 1849.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Societies
may re-in-
corporate
themselves.

§ 2. The trustees, directors or stockholders of any existing benevolent, charitable, scientific or missionary corporation may, by conforming to the requirements of the first section of the act hereby amended, re-incorporate themselves or continue their existing corporate powers for the period limited by the act hereby amended, and all the property and effects of such existing corporation, shall vest in and belong to the corporation so re-incorporated or continued.

CHAP. 50.

AN ACT to authorize the mortgaging of real estate of benevolent, charitable, scientific and missionary societies.

PASSED March 8, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

By applica-
tion to the
supreme
court.

§ 1. It shall be lawful for the supreme court of this state, upon the application of any benevolent, charitable, scientific or missionary society, incorporated by law, in case it shall deem it proper, to make an order for the mortgaging of any real estate belonging to said corporation, and to direct the application of the moneys arising therefrom, by the said corporation, to such uses as the same corporation, with the consent and approbation of the said court, shall conceive to be most for the interest of the society to which the real estate so mortgaged belongs.

14 Ab., 424.

CHAP. 242.

AN ACT for the incorporation of fine art associations, and to amend "An act for the incorporation of benevolent, charitable, scientific and missionary societies," passed April twelfth, eighteen hundred and forty-eight.

PASSED April 10, 1860.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any five or more persons of full age citizens of the United States, may associate, pursuant to "An act for the incorporation of benevolent, charitable, scientific and missionary societies," passed April twelfth, eighteen hundred and forty-eight, and the acts amendatory thereof, for the purpose of promoting and cultivating the fine arts, by establishing a gallery or collection of pictures and statuary, including other objects of the fine arts; and when associated, they shall be subject to the provisions of the aforesaid acts.

Five or more persons may form society.

§ 2. Any fine art association so formed, may be capable of taking, by gift, devise, bequest or purchase, and of holding, for the purposes of their incorporation and for no other purpose, real or personal property exceeding in value the amounts limited by the said act, provided a justice of the supreme court of the district in which the principal office of such association shall be located, shall from time to time allow the same, by an order to be entered on the records of the court, which shall also specify the limit fixed by said justice.

May hold real or personal property to certain extent.

Ante, p. 705.

CHAP. 58.

AN ACT to authorize the leasing or sale and conveyance of the real estate of benevolent, charitable, scientific, missionary societies and orphan asylums.

PASSED March 19, 1861.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be lawful for the supreme court of this state, upon the application of three-fourths of the trustees of any benevolent, charitable, scientific, missionary society or orphan asylum incorporated by law, in case it shall deem it proper, to make an order for the leasing or sale and conveyance of any real estate belonging to such corporation, and to direct the application of the moneys arising therefrom by the said corporation to such uses as to the said court shall seem to be most for the interest of the corporation to which the real estate so leased or conveyed belongs.

By application to the supreme court.

CHAP. 302.

AN ACT to amend an act entitled "An act for the incorporation of benevolent, charitable, scientific and missionary societies," passed April 12, 1848.

PASSED April 17, 1862.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Extended
to historical
and literary
purposes.

§ 1. Section first of the act entitled "An act for the incorporation of benevolent, charitable, scientific and missionary societies," passed April twelfth, eighteen hundred and forty-eight, is hereby amended by adding to said section after the word "scientific," in the fourth line thereof, the words "historical, literary," so that said act shall authorize the incorporation of historical and literary societies in the same manner as in case of the organization of societies "for benevolent, charitable, scientific or missionary purposes." Ante, p. 705.

CHAP. 94.

AN ACT to incorporate medical societies, for the purpose of regulating the practice of physic and surgery in this State.

PASSED April 10, 1813.

Preamble.

WHEREAS well regulated medical societies have been found to contribute to the diffusion of true science, and particularly the knowledge of the healing art : Therefore,

County medical societies, how incorporated.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That it shall and may be lawful for the physicians and surgeons in the several counties of this state now authorized by law to practice in their several professions, except in those counties wherein medical societies have been already incorporated, to meet together on the first Tuesday of July next, at the place where the last term of the court of common pleas next previous to such meeting was held in their respective counties ; and the several physicians and surgeons so convened as aforesaid, or any part of them, being not less than five in number, shall proceed to the choice of a president, vice-president, secretary and treasurer, who shall hold their offices for one year, and until others shall be chosen in their places ; and whenever the said societies shall be so organized as aforesaid, they are hereby declared to be bodies corporate and politic, in fact and in name, by the names of the medical society of the county where such societies shall respectively be formed, and by that name shall be

The officers of each society.

Its corporate name.

in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places, and in all matters and causes whatsoever; and shall and may have a common seal, and may alter and renew the same at their pleasure: *Provided always*, That if the said physicians and surgeons shall not meet and organize themselves at such time and place as aforesaid, it shall be lawful for them to meet at such other time as a majority of them shall think proper; and their proceedings shall be as valid as if such meeting had been at the time before specified.

5 W., 211; 3 W., 426; 24 B., 570.

§ 2. *And be it further enacted*, That the medical societies of counties already incorporated, shall continue to be bodies corporate and politic, in fact and in name, by the names of the medical society of the county where such societies have respectively been formed, and by that name shall be in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places, and in all matters and causes whatsoever, and shall and may have a common seal, and may alter and renew the same at their pleasure, and that the president, vice-president, secretary and treasurer, of such incorporated societies, shall hold their offices for one year, and until others shall be chosen in their places.

CH. XVIII.
And privileges.

The present county societies to continue incorporated.

Their privileges and general powers.

And officers

§ 3. *And be it further enacted*, That the medical society already incorporated, by the style and name of the Medical Society of the state of New York, shall continue to be a body politic and corporate, in fact and in name, and by that name shall be in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places, and in all matters and causes whatsoever, and shall and may have and use a common seal, and may change and alter the same at their pleasure; and that the said society shall be composed of one member from each of the county societies in the state, elected by ballot at their annual meeting, who shall meet together at the time and place appointed by the said society for that purpose, and being met, not less than fifteen in number, may annually elect by ballot, a president, vice-president, secretary and treasurer, who shall hold their offices for one year, and until others shall be chosen in their places.

The medical society of the State of New York to continue incorporated.

How constituted and composed.

Its officers,

18 W., 539; see Laws of 1853, ch. 317. Post, p. 717.

§ 4. *And be it further enacted*, That the medical society of the State of New York, and also the medical societies of the respective counties shall and may agree upon and determine the times and places of their meeting; and the time so agreed upon shall forever thereafter be the anniversary day of holding their respective meetings; and it is hereby made the duty of the secretary of each of the county medical socie-

Medical societies' anniversary meetings.

PART I.

Proceedings of first meeting, where deposited.

State society divided into classes.

Notice, how given of vacancies in the state society.

Classes in state society may be varied, and how.

Vacancies in state society, how filled.

Medical societies to examine students and give diplomas.

Student, if refused diploma may appeal to the state society.

ties, to lodge in the office of the clerk of their respective counties, if not already done, a copy of all the proceedings had at their first meeting; and it shall also be the duty of the secretary of the medical society of the state of New York, in like manner, to lodge in the office of the secretary of this state, a copy of their proceedings had at their first general meeting; and the said clerks and secretary are hereby required to file the same in their respective offices, for which they shall each receive the sum of twelve and an half cents.

§ 5. *And be it further enacted*, That the members now composing the medical society of the state of New York from each of the four great districts, shall remain divided into four classes, and one class from each of said districts shall go out of office annually.

§ 6. *And be it further enacted*, That it shall be the duty of the secretary of the medical society of the state of New York, whenever the seats of any of the members shall become vacant, to give information of the same to the respective county societies, to the end that such county societies may supply such vacancy at their next meeting.

§ 7. *And be it further enacted*, That in case there shall be an addition to the number of members composing the medical society of the state, that in that case it shall be in the power of the said society at any of their annual meetings, and as often as they shall judge necessary, to alter and vary the classes in such manner as that one-fourth of the members from each of the great districts, as near as may be, shall annually go out of office.

§ 8. *And be it further enacted*, That if the seat of any member of the medical society of the state of New York shall be vacated, either by death, resignation or removal from the county, it shall be the duty of the medical society of such county to fill such vacancy at their next meeting after such vacancy shall happen.

§ 9. *And be it further enacted*, That the medical societies established as aforesaid, are hereby respectively empowered to examine all students who shall and may present themselves for that purpose, and to give diplomas under the hand of the president and seal of such society before whom such student shall be examined, which diploma shall be sufficient to empower the person so obtaining the same to practice physic or surgery, or both, as shall be set forth in the said diploma, in any part of this state.

1 H., 665; 3 W., 426.

§ 10. *And be it further enacted*, That if any student who shall have presented himself for examination before any of the medical societies of the several counties of this state shall think himself aggrieved by the decision of such society, it shall be lawful for such student to present himself for examination to the medical society of the state of New York; and

if in the opinion of such society the student so applying is well qualified for the practice of physic or surgery, or both, as the case may be, the president of such society shall, under his hand and the seal of such society, give to the said applicant a diploma, agreeable to such decision.

§ 11. *And be it further enacted*, That it shall and may be lawful for the several medical societies so established as aforesaid, at their annual meetings, to appoint not less than three nor more than five censors, to continue in office one year and until others are chosen, whose duty it shall be carefully and impartially to examine all students who shall present themselves for that purpose, and report their opinion in writing to the president of said society.

Censors to be appointed by the societies.

[Section 12 repealed by Laws of 1828, ch. 21.]

§ 13. *And be it further enacted*, That it shall and may be lawful for the medical societies of the respective counties of this state, and also the medical society of the state of New York, to purchase and hold any estate, real and personal, for the use of said respective societies: *Provided*, Such estate, as well real as personal, which the county societies are hereby respectively authorized to hold, shall not exceed the sum of one thousand dollars; and that the estate, as well real as personal, which the medical society of the state of New York is hereby authorized to hold, shall not exceed five thousand dollars.

Medical societies may hold real and personal estate.

§ 14. *And be it further enacted*, That it shall be lawful for the respective societies to make such by-laws and regulations relative to the affairs, concerns and property of said societies, relative to the admission and expulsion of members, relative to such donations or contributions as they or a majority of the members at their annual meeting shall think fit and proper: *Provided*, That such by-laws, rules and regulations made by the society of the state of New York, be not contrary to, nor inconsistent with, the constitution and laws of this state, or of the United States; and that the by-laws, rules and regulations of the respective county societies shall not be repugnant to the by-laws, rules and regulations of the medical society of the state of New York, nor contrary to, nor inconsistent with, the constitution and laws of this state or of the United States.

Societies may make by-laws.

24 B., 570; 13 W., 473; 10 W., 449.

§ 15. *And be it further enacted*, That the treasurer of each society established as aforesaid shall receive and be accountable for all monies that shall come into his hands by virtue of any of the by-laws of such societies, and also for all monies that shall come into the hands of the president thereof for the admission of members, or licensing students; which monies the said president is hereby required to pay over to the said treasurer, who shall account therefor to the society at their annual meetings, and no monies shall be drawn from the treasurer unless such sums and for such purposes as shall be

Treasurer of each society liable for moneys.

PART I.

agreed upon by a majority of the society at their annual meeting, and by a warrant for that purpose signed by the president.

Secretary
of each so-
ciety to
keep its
minutes.

§ 16. *And be it further enacted*, That it shall be the duty of the secretary of each of the said medical societies to provide a book, in which he shall make an entry of all the resolutions and proceedings which may be had from time to time; and also the name of each and every member of said society, and the time of his admission, and also the annual reports relative to the state of the treasury, and all such other things as a majority of the society shall think proper; to which book any member of the society may at any time have recourse; and the same, together with all books, papers and records which may be in the hands of the secretary and be the property of the society, shall be delivered to his successor in office.

A medical
library and
apparatus
may be pro-
cured.

§ 17. *And be it further enacted*, That it shall be lawful for each of the said medical societies to cause to be raised and collected from each of the members of such society, a sum not exceeding three dollars in any one year, for the purpose of procuring a medical library and apparatus, and for the encouragement of useful discoveries in chemistry, botany, and such other improvements as the majority of the society shall think proper.

What to be
paid on re-
ceiving di-
plomas.

§ 18. *And be it further enacted*, That any student who may receive a diploma from the medical society of this state, shall pay to the president thereof on receiving the same, ten dollars; and for each diploma that a student may receive from the medical society of any county, he shall pay to the president thereof on receiving the same, five dollars: *Provided*, That the students who have been examined previous to the twenty-sixth day of May, one thousand eight hundred and twelve, and were entitled to receive diplomas, but who have not received the same, shall not pay therefor more than two dollars.

State so-
ciety may
annually
elect two
members
thereof.

§ 19. *And be it further enacted*, That the medical society of this state may elect by ballot at their annual meeting, eminent and respectable physicians and surgeons residing in any part of this state, which persons so elected shall be permanent members of the society, and entitled to all the privileges of the same: *Provided*, That not more than two such members shall be elected in any one year, and that they receive no compensation for their attendance from the funds of the society.

[Sections 20, 21, 22, repealed by Laws of 1828, ch. 21.]

Legislature
may modify
or repeal
this act.

§ 23. *And be it further enacted*, That it shall be in the power of the legislature to alter, modify or repeal this act whenever they shall deem it necessary or expedient.

When phy-
sicians
may be-
come mem-
bers of an-

§ 24. *And be it further enacted*, That if there should not be a sufficient number of physicians and surgeons in any of the counties of this state to form themselves into a medical society

agreeably to this act, it shall be lawful for such physicians and surgeons to associate with the physicians and surgeons of an adjoining county for the purposes hereby contemplated.

§ 25. *And be it further enacted*, That this act shall be and hereby is declared to be a public act.

CH. XVIII.
the county
society.

This act de-
clared a
public act.

CHAP. 110.

AN ACT to raise money to build a bridge over Allen's creek in the town of Le Roy, and for other purposes.

PASSED April 9, 1814.

§ 9. *And be it further enacted*, That the medical societies which have been organized in the several counties set apart since the passage of the act, entitled "An act to incorporate medical societies," passed 26th March, 1806, shall enjoy the same privileges, and shall possess the same authority as those societies incorporated by virtue of the above recited act.

Certain me-
dical socie-
ties.

CHAP. 206.

AN ACT to amend an act, entitled "An act to incorporate medical societies, for the purpose of regulating the practice of physic and surgery in this state."

PASSED April 20, 1818.

[Sections 1, 2, 4, 7, repealed by Laws of 1828, ch. 21.]

§ 3. *And be it further enacted*, That the state medical society shall annually elect not more than twelve, nor less than six censors, any three of whom shall be a quorum for the examination of students.

Censors to
be elected.

§ 5. *And be it further enacted*, That in those counties where the anniversary meetings of any county medical society, shall occur on the same day on which the court of common pleas shall meet, it shall be lawful for such society to alter the time of their anniversary meeting, to such day as a majority of the said society present may think proper.

Anniver-
sary meet-
ing of coun-
ty societies
may be
altered.

§ 6. *And be it further enacted*, That each of the colleges of medicine in this state, may elect a delegate to represent their colleges, respectively, in the medical society of the state, who shall be entitled to all the privileges, and subject to the same regulations, as the delegates from the county medical societies.

Delegates
to repre-
sent the
colleges of
medicine.

CHAP. 237.

AN ACT further to amend "An act to incorporate medical societies, for the purpose of regulating the practice of physic and surgery in this state."

PASSED April 13, 1819.

Annual
payments.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That it shall and may be lawful for each medical society in this state, to cause to be raised and collected from each practising physician or surgeon, residing in the county or counties where such society is by law established, a sum not exceeding one dollar in any one year; which sum when collected, shall be a part of the fund of said society, to be applied as directed by the seventeenth section of the act, entitled "An act to incorporate medical societies for the purpose of regulating the practice of physic and surgery in this state," passed April 10, 1813.

[Section 2 repealed by Laws of 1828, ch. 21.]

CHAP. 228.

AN ACT to enable the county medical societies in this state to alter the time of holding their annual meetings.

PASSED April 23, 1823.

Annual
meeting,
&c

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That it shall and may be lawful for any society, incorporated under the act, entitled "An act to incorporate medical societies, for the purpose of regulating the practice of physic and surgery in this state," at any anniversary meeting of such society, to change the day of holding their annual meeting to such other day in the year as may be more convenient: *Provided,* That two-thirds of the members present concur in voting for such change: notice of intention to move the same, having been first given at some previous regular meeting of the society.

Ante, p. 710.

CHAP. 8.

AN ACT to amend an act entitled "An act to incorporate Medical Societies for the purpose of regulating the practice of physic and surgery in this State, passed April 10th, 1813.

PASSED February 6, 1845, by a two-third vote.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Additional
members to
be elected.

§ 1. It shall and may be lawful for the medical society of this state, to elect annually such a number of permanent

members as they may from time to time determine by their by-laws, not to exceed two annually from any one senatorial district.

CHAP. 317.

AN ACT to amend an act entitled "An act to incorporate Medical Societies for the purpose of regulating the practice of physic and surgery in this state," passed April 10, 1813.

PASSED June 4, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Section third of said act is hereby amended as follows: instead of the words "said society shall be composed of one member from each of the county societies in the state," it shall read: "said society shall be composed of as many members from each county medical society as there are members of the assembly from such county."

Number of
members of
state soci-
ety.

18 W., 539. Ante, p. 711.

CHAP. 123.

AN ACT to promote medical science.

PASSED April 1, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall be lawful, in cities whose population exceeds thirty thousand inhabitants, to deliver to the professors and teachers in medical colleges and schools in this state, and for said professors and teachers to receive the remains or body of any deceased person, for the purposes of medical and surgical study; provided that said remains shall not have been regularly interred, and shall not have been desired for interment, by any relative or friend of said deceased person, within twenty-four hours after death; provided, also, that the remains of no person, who may be known to have relatives or friends, shall be so delivered or received, without the consent of said relatives or friends; and provided that the remains of no one detained for debt, or as a witness, or on suspicion of crime, or of any traveler, nor of any person who shall have expressed a desire in his or her last sickness that his or her body may be interred, shall be delivered or received as aforesaid, but shall be buried in the usual manner; and provided, also, that in case the remains of any person so delivered or received shall be subsequently claimed by any surviving relative or friend, they shall be given up to said relative or friend for interment.

Bodies may
be delivered
for dissec-
tion under
certain re-
strictions.

PART I.

And it shall be the duty of the said professors and teachers decently to bury in some public cemetery the remains of all bodies, after they shall have answered the purposes of study aforesaid; and for any neglect or violation of this provision of this act, the party so neglecting shall forfeit and pay a penalty of not less than twenty-five nor more than fifty dollars, to be sued for by the health officers of said cities or of other places for the benefit of their department.

Bodies to be used for study, and in this state only.

§ 2. The remains or bodies of such persons as may be so received by the professors and teachers as aforesaid, shall be used for the purposes of medical and surgical study alone, and in this state only; and whoever shall use such remains for any other purpose, or shall remove such remains beyond the limits of this state, or in any manner traffic in the same, shall be deemed guilty of a misdemeanor, and shall, on conviction, be imprisoned for a term not exceeding one year in a county jail.

Penalty for violating law.

§ 3. Every person who shall deliver up the remains of any deceased person, in violation of or contrary to any or all of the provisions contained in the first section of this act, and every person who shall receive said remains, knowing the same to have been delivered contrary to any of the provisions of said section, shall each and every of them be deemed guilty of a misdemeanor.

§ 4. All laws, so far as inconsistent with this act, are hereby repealed.

CHAP. 384.

AN ACT to incorporate Homeopathic Medical Societies.

PASSED April 13, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Societies, how incorporated.

§ 1. It shall be lawful for homeopathic physicians in each of the counties of this state, to meet together on the first Tuesday of May next, at the place where the county courts are appointed to be held in their respective counties, and organize county homeopathic medical societies in the same manner as is provided in an act entitled "An act to incorporate medical societies for the purpose of regulating the practice of physic and surgery in this state," passed April 10, 1813. And whenever a society be organized as aforesaid in either of the said counties, it shall be known by the name of the Homeopathic Medical Society of the county in which it shall be founded, and shall have all the powers, rights and privileges, and be subject to all the duties and responsibilities now by law given to or imposed upon a county medical society organized under the act aforesaid. Ante, p. 710.

§ 2. If the said physicians shall not meet and organize themselves at such time and place as aforesaid, it shall be lawful for them to meet at such other time as a majority shall think proper, and their proceedings shall be as valid as if such meeting had been held at the time before specified.

CH. XVIII.
Time of
meeting for
organiza-
tion.

CHAP. 243.

AN ACT to facilitate the construction of Morse's Electro-Magnetic Telegraph.

PASSED May 13, 1845.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The proprietors of the patent right of Morse's electro-magnetic telegraph may be and are hereby authorized to construct lines of said telegraph from point to point and across any of the waters within the limits of this state, by the erection of posts, piers or butments for sustaining the wires of the same: Provided, that the same shall not in any instance be so constructed as to endanger or injuriously interrupt the navigation of such waters; and provided also, that the private rights of individuals shall be in no wise impaired by the provisions of this act; nor shall this act authorize the construction of any bridge or other similar erection across any of the streams of waters in this state. Any person or persons who shall knowingly or willfully injure, molest or destroy any of said lines, or the materials or property pertaining thereto, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by fine or imprisonment, or both, at the discretion of the court which shall have and take cognizance thereof.

Lines may
be con-
structed.

Injury to
them pun-
ished.

§ 2. The legislature may, at any time, alter, modify or repeal this act, and the same shall take effect immediately.

Right to
repeal.

✓ CHAP. 265.

AN ACT to provide for the incorporation and regulation of telegraph companies.

PASSED April 12, 1848.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any number of persons may associate for the purpose of constructing a line of wires of telegraph through this state, or from and to any point within this state, upon such terms and conditions, and subject to the liabilities prescribed in this act.

Associa-
tions, how
to be form-
ed.

PART I.
Certificate
to be made.

§ 2. Such persons under their hands and seal, shall make a certificate which shall specify,

1. The name assumed to distinguish such association, and to be used in its dealings, and by which it may sue and be sued;

2. The general route of the line of telegraph, designating the points to be connected;

3. The capital stock of such association, and the number of shares into which the stock shall be divided;

4. The names and places of residences of the shareholders, and the number of shares held by each of them respectively;

5. The period at which such association shall commence and terminate; which certificate shall be proved or acknowledged, and recorded in the office of the clerk of the county where any office of such association shall be established, and a copy thereof filed in the office of the secretary of state. Such acknowledgment may be taken by any officer authorised to take the acknowledgment of deeds of real estate, at the place where such acknowledgment is taken.

When to become bodies corporate.

§ 3. Upon complying with the provisions of the last preceding section, such association shall be, and hereby is declared to be a body corporate, by the name so as aforesaid to be designated in said certificate; and a copy of said certificate duly certified by the clerk of the county, where the same is filed and recorded, or by the secretary of state, may be used as evidence in all courts and places, for and against any such association.

Real estate.

§ 4. Such association shall have power to purchase, receive and hold, and convey such real estate, and such only, as may be necessary for the convenient transaction of the business, and for effectually carrying on the operations of such association, and may appoint such directors, officers and agents, and make such prudential rules, regulations and by-laws, as may be necessary in the transaction of their business, not inconsistent with the laws of this state or of the United States.

Lines may be constructed.

§ 5. Such association is authorized to construct lines of telegraph along and upon any of the public roads and highways, or across any of the waters within the limits of this state, by the erection of the necessary fixtures, including posts, piers or abutments, for sustaining the cords or wires of such lines; provided the same shall not be so constructed as to incommode the public use of said roads or highways, or injuriously interrupt the navigation of said waters; nor shall this act be so construed as to authorise the construction of any bridge across any of the waters of this state.

Provision in case of persons being aggrieved.

§ 6. If any person over whose lands said lines shall pass, upon which said posts, piers or abutments shall be placed, shall consider himself aggrieved or damaged thereby, it shall be the duty of the county court of the county within which

said lands are on the application of such person, and on notice to said association, (to be served on the president or any director,) to appoint five discreet and disinterested persons as commissioners, who shall severally take an oath before any person authorised to administer oaths, faithfully and impartially to perform the duties required of them by this act: And it shall be the duty of said commissioners, or a majority of them, to make a just and equitable appraisal of all the loss or damage sustained by said applicant, by reason of said lines, posts, piers or abutments; duplicates of which said appraisal shall be reduced to writing and signed by said commissioners, or a majority of them; one copy shall be delivered to the applicant, and the other to the president, or any director or officer of said association or corporation, on demand; and in case any damage shall be adjudged to said applicant, the association or corporation shall pay the amount thereof, with cost of said appraisal, said costs to be liquidated and ascertained in said award; and said commissioners shall receive, for their services, two dollars for each day they are actually employed in making said appraisement.

§ 7. Any person who shall unlawfully and intentionally injure, molest or destroy any of said lines, posts, piers or abutments, or the materials or property belonging thereto, shall, on conviction thereof, be deemed guilty of a misdemeanor, and be punished by a fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding one year, or both, at the discretion of the court before which the conviction shall be had. Penalty for
injuring
lines.

§ 8. It shall be lawful for any association of persons organized under this act, by their articles of association, to provide for an increase of their capital, and of the number of the association. Increase of
stock.

§ 9. Any association or company now organized and using Morse's telegraph may organize as a corporation under this act on filing in the office of the secretary of state a resolution of its board of directors signed and certified by the officers of the company, of its desire so to organize, and upon publishing notices to this effect in some one newspaper in the city of New York, and the city of Buffalo, and the city Albany, three months previous to such organization, provided that two-fifths of the owners of the stock of said company or association do not dissent therefrom; provided that any stock or shareholder in any such association or company, may, on giving thirty days' notice to the officers, or any of them, of such association and company, at any time before such organization, refuse to go into such organization, and thereupon such stock or shareholder shall be entitled to receive from such association or company the full value of his shares or stock in such association or company. Morse's
telegraph
companies.

§ 10. The stockholders of every association organized in pursuance of this act, shall be jointly and severally personally Liability of
stockhold-
ers.

PART I.

liable for the payment of all debts and demands against such association, which shall be contracted or which shall be or shall become due during the time of their holding such stock, but such liability of any stockholder shall not exceed twenty-five per cent in amount, the amount of stock held by him, and no stockholder shall be proceeded against for the collection of any debt or demand against such association, until judgment thereon shall have been obtained against the association, and an execution on such judgment shall have been returned unsatisfied in whole or in part, or unless such association shall be dissolved.

Provision
respecting
despatches.

§ 11. It shall be the duty of the owner or the association owning any telegraph line, doing business within this state, to receive dispatches from and for other telegraph lines and associations, and from and for any individual, and on payment of their usual charges for individuals for transmitting despatches as established by the rules and regulations of such telegraph line, to transmit the same with impartiality and good faith, under the penalty of one hundred dollars for every neglect or refusal so to do, to be recovered with costs of suit, in the name and for the benefit of the person or persons sending or desiring to send such despatch; provided that nothing contained in this section shall be construed to require any telegraph company or association to receive and transmit despatches from or for any other company or association, owning a line of telegraph parallel with or doing business in competition with the line over which the despatch is required to be sent.

Thus amended by Laws of 1855, ch. 559; 45 R., 293; 31 How. P. R., 93; 30 How. P. R., 407.

In what
order to
be trans-
mitted.

§ 12. It shall likewise be the duty of every such owner or association, to transmit all dispatches in the order in which they are received, under the like penalty of one hundred dollars, to be recovered with costs of suit, by the person or persons whose despatch is postponed out of its order, as herein prescribed; provided, however, that arrangements may be made with the proprietors or publishers of newspapers, for the transmission for the purpose of publication of intelligence of general and public interest, out of its regular order.

CHAP. 340.

AN ACT to amend the act entitled "An act to provide for the incorporation and regulation of telegraph company," passed April 12, 1848.

PASSED April 10, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Penalty for
divulging
contents of

§ 1. Any person connected with any telegraph company in this state, either as clerk, operator, messenger, or in any other

capacity, who shall wilfully divulge the contents, or the nature of the contents, of any private communication entrusted to him for transmission or delivery, or who shall wilfully refuse or neglect to transmit or deliver the same, shall on conviction before any court, be adjudged guilty of a misdemeanor, and shall suffer imprisonment in the county jail or workhouse, in the county where such conviction shall be had, for a term of not more than three months, or shall pay a fine not to exceed five hundred dollars in the discretion of the court.

CH. XVIII.
communi-
cation or
refusing to
transmit.

CHAP. 98.

AN ACT to amend an act entitled "An act to provide for the incorporation and regulation of telegraph companies," passed April twelfth, one thousand eight hundred and forty-eight.

PASSED April 8, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The directors or trustees of any telegraph company formed or incorporated under the act entitled "An act to provide for the incorporation and regulation of telegraph companies," passed April twelfth, one thousand eight hundred and forty-eight, may at any time, with the written consent of the persons owning two-thirds of the capital stock of such company, extend their line of telegraph, or may construct branch lines to connect with their main line, or may unite with any other incorporated telegraph company.

Company
may extend
lines.

CHAP. 471.

AN ACT to amend an act entitled "An act to provide for the incorporation and regulation of telegraph companies," passed April 12, 1848.

PASSED June 29, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any number of persons may associate, for the purpose of owning or constructing, using and maintaining, a line or lines of electric telegraph, whether wholly within, or partly beyond, the limits of this state; or for the purpose of owning any interest in any such line or lines of electric telegraph, or any grants therefor, upon such terms and conditions, and subject to the liabilities prescribed in the act passed April 12, 1848, entitled "An act to provide for the incorporation and regulation of telegraph companies." And such association

Formation
of compa-
nies.

PART I.

shall, upon complying with the provisions of the said act, become a body corporate, and shall have the powers, and be subject to the provisions in the said act, and in the several acts amending the same, contained, not inconsistent herewith. And any telegraph company now owning or using any telegraph line, either wholly or partly within this state, may become a body corporate, and entitled to the benefit of the provisions herein contained, on filing in the office of the secretary of state a certificate of a resolution adopted by a majority of its board of directors to organize under this act; which said certificate shall contain the specifications required by the said recited act, and shall be proved or acknowledged, and recorded in the manner therein prescribed.

Authority
to construct
lines of
telegraph.

§ 2. Such association is authorized to erect and construct, from time to time, the necessary fixtures for such lines of telegraph, upon, over or under any of the public roads, streets, and highways; and through, across or under any of the waters within the limits of this state, subject to the restrictions in the said recited act contained; and also to erect and construct such fixtures upon, through or over any other land, subject to the right of the owner or owners thereof to full compensation for the same. And if any such association cannot agree with the owner or owners of any land taken or used by such association for the compensation to be paid therefor, it shall, and may be lawful for such association, or such owner or owners, to apply to the county court of the county in which such lands are, by petition, stating the facts in relation thereto; and after the expiration of twenty-one days from the filing of such petition, and notice thereof given to such association, or to the owner or owners of such land, as the case may be, it shall be the duty of the said court to appoint five disinterested persons to make a just and equitable assessment and appraisal in the manner directed by the said recited act, of the loss or damage, if any, which may have been, or is likely to be sustained by the owner or owners of such land taken or used as aforesaid, whilst such land shall have been, or shall continue to be used as aforesaid. And such assessment and appraisal shall determine the annual rent or compensation to be paid by such association for such use, or in lieu thereof, a sum in gross as the compensation for allowing the fixtures belonging to such association permanently to continue, and the same to be repaired, improved, and renewed, or removed from time to time, as such association may require.

Report of
court of
works.

§ 3. Every such company owning or using a line of electric telegraph, partly within, and partly beyond the limits of this state, shall render to the proper officer a true report of the cost to such company of their works within this state; and the stock of such company in amount equal to such cost, or the dividends thereof, shall be subject to taxation in the same manner, and at the same rate, as the stock, or dividends of

other companies incorporated by the laws of this state are subject.

§ 4. The liability of any share or stockholder in any company organized under this act, as provided for in the act of which this is an amendment, shall only apply to the amount due by any such share or stockholder in such company, and unpaid, on or for any such share or stock.

Liability of
share or
stock-
holders.

CHAP. 215.

AN ACT in relation to operators and others in the employ of Telegraph companies in this State.

PASSED April 13, 1861 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. That the operators, assistant operators, clerks and other persons, in the employ of the different telegraph companies in the state of New York, and while doing duty in the offices of said companies, or along the routes of their telegraph lines, shall be exempt from militia duties and serving on juries, and from any fine or penalty for neglect thereof.

Operators
exempt
from jury
and militia
duty.

CHAP. 425.

AN ACT further to amend the act entitled "An act to provide for the incorporation and regulation of telegraph companies," passed April twelfth, eighteen hundred and forty-eight.

PASSED April 22, 1862 ; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Any telegraph company which is duly incorporated under and in pursuance of the act entitled "An act to provide for the incorporation and regulation of telegraph companies," passed April twelfth, eighteen hundred and forty-eight, may construct, own, use and maintain any line or lines of electric telegraph not described in their original certificate of organization, whether wholly within or wholly or partly beyond the limits of this state, and may join with any other corporation or association in constructing, leasing, owning, using or maintaining such line or lines, and may own and hold any interest in any such line or lines, and may become lessees of any such line or lines, upon the term and conditions and subject to the liabilities prescribed in said act, so far as such provisions are applicable to the construction, using,

Corporate
rights of
telegraph
companies
extended.

PART I.

Certificate
to be filed
with Secre-
tary of state

maintaining, owing or holding of telegraph lines, or any interest therein, pursuant to the provisions of this act.

§ 2. In case any company incorporated as before mentioned shall become the owners or lessees of, or engage in the construction, use or maintenance of, any line or lines of electric telegraph, not described in their original certificate of organization, or shall join with any other corporation or association in leasing, constructing, owning, using or maintaining any such line or lines, or shall own or hold any interest in such line or lines, or shall become lessee of any such line or lines, such company, within one year after constructing or becoming such owners or lessees, or after joining with any other corporation or association in such construction, leasing or ownership, or after acquiring any other interest in such line or lines, shall file in the office of the Secretary of State of this state a certificate describing the general route of such line or lines, designating the extreme points connected thereby, as provided in section two of the act hereby amended; which certificate shall be executed by at least two-thirds of the directors of such corporation under their hands and seals, and shall be acknowledged by them as prescribed in subdivision five of the second section above mentioned.

Provisions
relating to
filing certi-
ficates of
companies
already
formed.

§ 3. Any telegraph company incorporated as mentioned in the first section of this act, which before the passing of this act shall have purchased, constructed or leased, or shall have joined with any other corporation or association in the purchase, construction or leasing, or shall have become the owner or holder of any interest in any line or lines of telegraph not described in their original certificate of organization, may, within one year after the passing of this act, make and file in the office of the Secretary of State such certificate as is provided in the second section of this act, and upon the filing of such certificate, their acts, if otherwise within the provisions of this statute, shall be as valid and effectual as if done after the passing of this act, saving all existing rights of other persons.

CHAP. 67.

AN ACT relative to incorporations for manufacturing purposes.

PASSED March 22, 1811.

Companies
for manu-
facturing
may be in-
corporated.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly, That at any time within five years hereafter, any five or more persons who shall be desirous to form a company for the purpose of manufacturing woolen, cotton or linen goods, or for the purpose of making glass, or for the purpose of making from ore, bar-iron, anchors,*

mill-irons, steel, nail rods, hoop-iron and ironmongery, sheet copper, sheet lead, shot, white lead and red lead, may make, sign and acknowledge, before a justice of the supreme court, a judge of the court of common pleas, or a master in chancery, and file in the office of the secretary of this state, a certificate in writing, in which shall be stated the corporate name of the said company and the objects for which the company is formed, the amount of the capital stock of the said company, the number of shares of which the said stock shall consist, the number of trustees and their names who shall manage the concerns of the said company for the first year, and the names of the town and county in which the manufacturing operations of the said company are to be carried on.

5 H., 461.

§ 2. *And be it further enacted*, That as soon as such certificate shall be filed as aforesaid, the persons who shall have signed and acknowledged the said certificate, and their successors, shall, for the term of twenty years next after the day of filing such certificate, be a body politic and corporate, in fact and in name, by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended, in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever; and they and their successors may have a common seal, and the same may make, alter and change at their pleasure; and that they and their successors, by their corporate name, shall in law be capable of buying, purchasing, holding and conveying any lands, tenements, hereditaments, goods, wares and merchandize whatever, necessary to enable the said company to carry on their manufacturing operations mentioned in such certificate.

To be bodies corporate and politic.

§ 3. *And be it further enacted*, That the stock, property and concerns of such company shall be managed and conducted by trustees, who, except those for the first year, shall be elected at such time and place as shall be directed by the by-laws of the said company, and public notice shall be given of the time and place of holding such election not less than ten days previous thereto, in the newspaper printed nearest to the place where the manufacturing operations of the said company shall or are to be carried on, and the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy, and all elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of the stock of the said company, and the persons having the greatest number of votes shall be trustees; and whenever any vacancy shall happen among the trustees by death, resignation, or removal out of the state, such vacancy shall be filled for the remainder of the year in such manner as

Trustees to be annually elected.

Vacancy in the office of trustees, how filled.

PART I.

Number not
to exceed
nine.

shall be provided by the by-laws of the said company: *Provided always*, That the number of trustees shall not exceed nine, and that they shall respectively be stockholders in such company.

15 W., 257.

Company
not dissolv-
ed by neg-
lect to elect.

§ 4. *And be it further enacted*, That in case it shall at any time happen that an election of trustees be not made on the day when by the by-laws of the said company it ought to have been done, the said company for that cause shall not be dissolved, but it shall and may be lawful on any other day to hold an election for trustees, in such manner as shall be directed by the by-laws of such company.

Capital
stock.

§ 5. *And be it further enacted*, That the capital stock of such company shall not exceed one hundred thousand dollars; and it shall be lawful for the trustees to call and demand from the stockholders respectively all such sums of money by them subscribed, at such time and in such proportions as they shall deem proper, under pain of forfeiting the shares of the said stockholders, and all previous payments made thereon, if such payments shall not be made within sixty days after a notice requiring such payment shall have been published in such newspaper as aforesaid.

Shares for-
feited for
non-pay-
ment.

Powers of
the trustees

§ 6. *And be it further enacted*, That the trustees of such company for the time being shall have power to make and prescribe such by-laws, rules and regulations as they shall deem proper respecting the management and disposition of the stock, property and estate of such company, the duties of the officers, artificers and servants by them to be employed, the election of trustees, and all such matters as appertain to the concerns of the said company, to appoint such and so many officers, clerks and servants for carrying on the business of the said company, and with such wages as to them shall seem reasonable: *Provided*, That such by-laws be not inconsistent with the constitution and laws of this state or of the United States.

Stock deem-
ed personal
estate and
how trans-
ferable.
Stockhold-
ers respon-
sible.

§ 7. *And be it further enacted*, That the stock of such company shall be deemed personal estate, and be transferable in such manner as shall be prescribed by the laws of the company: and that for all debts which shall be due and owing by the company at the time of its dissolution, the persons then composing such company shall be individually responsible to the extent of their respective shares of stock in the said company, and no further; and that it shall not be lawful for such company to use their funds, or any part thereof, in any banking transaction, or in the purchase of any stock of any bank, or in the purchase of any public stock whatever, or for any other purposes than those specified in such instrument as aforesaid.

Restriction
on the
funds.

17 N. Y., 93, 458; 11 N. Y., 148; 17 B., 119; 15 B., 62; 14 B., 354, 471; 7 B., 279; 4 B., 118, 390; 10 Pa., 592; 5 H., 131, 461; 2 H. 265; 24 W., 473; 8 Cow., 387; Hopk., 300; 7 J. C. R., 217; 5 C. R., 366; 19 J. R., 456; 25 N. Y., 215.

§ 8. *And be it further enacted*, That the copy of any certificate filed in pursuance of this act, and certified to be a true copy by the secretary of this state, or his deputy, shall, together with this act, be received in all courts and places as legal evidence of the incorporation of such company.

Post, pp. 730, 731, 732.

CH. XVIII.
Evidence
of incor-
poration.

CHAP. 47.

AN ACT to amend the act entitled "An act relative to incorporations for manufacturing purposes."

PASSED February 25, 1815.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly*, That from and after the passing of this act, it shall and may be lawful for any five or more persons who shall be desirous of forming a company for the purpose of manufacturing clay or earth into wares or articles for any use whatsoever, to associate together and form such company according to the directions and restrictions mentioned in the act, entitled "An act relative to incorporations for manufacturing purposes," passed March 22d, 1811; and such company when formed, and their successors, shall be a body politic and corporate, in fact and in name, with all the privileges, capacities and liabilities in the said act mentioned and contained.

Ante, pp. 726, 730.

Manufac-
turers of
clay or
earth.

CHAP. 202.

AN ACT for the preservation of cotton, woolen and linen manufactories from damage by fire.

PASSED April 17, 1815.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly*, That it shall and may be lawful for the president and directors of any company incorporated for the purpose of manufacturing cotton, woolen or linen yarns or cloths, and whose capital actually employed for such purpose shall exceed the sum of twenty-five thousand dollars, the number of persons actually employed in and about such manufactory shall not be less than fifty, to make, ordain and prescribe such by-laws and regulations within the limits of any parcel of land purchased by such company for that purpose, not exceeding twenty-five acres, as they may deem proper for the better preservation of property from fire within the limits of such parcel of land; and it shall and may be lawful for such president and directors, or a major part of them, to appoint, under the common seal of the said corporation, a sufficient number of men, willing to accept, residing within such limits, and not exceeding the number of twenty

Companies
employing
50 persons
may make
by-laws, &c

Firemen
may be ap-
pointed.

PART I.

to every fire engine now provided or hereafter to be provided for the use of such establishment, to have the care, management, working and using the said engines, and the other tools and instruments now or hereafter to be provided for the extinguishing of fires, which persons so to be appointed shall be called the firemen of such establishment; and while they respectively hold the said appointment shall be exempted from serving as jurors; and the certificate of the directors, or their authorized agent, under the seal of the said company, shall be evidence of the appointment of such firemen in all cases.

Certain articles to be exempt from distress and sale.

§ 2. *And be it further enacted*, That all articles of machinery, materials for manufacturing, or manufactured articles belonging to any such company, shall be free from seizure by execution or distress, for any debts or claims for rents or services, in whose hands soever they may be, except such execution or claim be against such company.

CHAP. 58.

AN ACT to continue in force certain acts therein mentioned

PASSED March 29, 1816.

Act continued in force.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly*, That the act, entitled "An act relative to incorporations for manufacturing purposes," and the act, entitled "An act to amend an act relative to in corporations for manufacturing purposes," shall be and continue in force until the first day of May, in the year of our Lord one thousand eight hundred and seventeen, and no longer.

25 W., 665.

Pin manufactories and others may be established.

§ 2. *And be it further enacted*, That from and after the passing of this act, and during the time in which the acts above mentioned shall continue in force, it shall and may be lawful for any five or more persons, who shall be desirous of forming a company for the purpose of manufacturing pins, or for the purpose of manufacturing beer, ale or porter, or for the purpose of extracting lead from ore, to associate together, and form a company according to the directions and under the restrictions mentioned in the act, entitled "An act relative to incorporations for manufacturing purposes;" and such company, when so formed, and their successors, shall be a body politic and corporate, in fact and in name, with all the privileges, capacities and liabilities, in the last aforesaid act mentioned and contained.

CHAP. 223.

AN ACT to amend the act, entitled "An act relative to incorporations for manufacturing purposes."

PASSED April 14, 1817.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That from and after the passing of this act it shall and may be lawful for any five or more persons, who shall be desirous of forming a company for the purpose of manufacturing morocco and other leather, to associate together and form such company, according to the directions and restrictions mentioned in the act, entitled "An act relative to incorporations for manufacturing purposes," passed March 22d, 1811; and such company when formed, and their successors, shall be a body politic and corporate, in fact and in name, with all the privileges, capacities and liabilities in said act mentioned and contained: *Provided nevertheless,* That no company or companies who shall become a body corporate under this act, shall be allowed to locate their establishment in any other counties than Greene and Delaware: *And also,* That the capital stock of any such company shall not exceed the sum of sixty thousand dollars: *And provided further,* That it shall be lawful for the legislature, at any time after two years, to dissolve any incorporations who may be formed under this act. Ante, p. 726.

Manufactories of morocco and other leather.

CHAP. 67.

AN ACT reviving the act relative to incorporations for manufacturing purposes.

PASSED March 31, 1818.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That the act, entitled "An act relative to incorporations for manufacturing purposes," passed March twenty-second, in the year one thousand eight hundred and eleven, be and the same is hereby revived and continued in force for the term of five years from the passing of this act.

25 W., 665. Ante, p. 726.

Act continued.

CHAP. 102.

AN ACT in addition to the act, entitled "An act to amend the act relative to incorporations for manufacturing purposes."

PASSED April 7, 1819.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That it shall be lawful

Act amended.

PART I.

for any company who shall become a body corporate under the act, entitled "An act to amend the act, entitled 'An act relative to incorporations for manufacturing purposes,' passed April 14th, 1817," to locate their establishment in the county of Oneida, anything in the proviso to said act to the contrary notwithstanding.

CHAP. 14.

AN ACT to revive and continue in force and operation an act, entitled "An act relative to incorporations for manufacturing purposes," passed March the 22d, 1811.

PASSED January 26, 1821.

Act revived.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That an act, entitled "An act relative to incorporations for manufacturing purposes," passed on the twenty second day of March, in the year of our Lord one thousand eight hundred and eleven, be hereby revived and continued in full force and operation, anything contained in any other law to the contrary notwithstanding.

25 W., 665. Ante, p. 726.

CHAP. 213.

AN ACT to amend an act, entitled "An act relative to incorporations for manufacturing purposes."

PASSED April 16, 1822.

WHEREAS doubts exist whether the trustees of manufacturing companies, incorporated under and pursuant to the act hereby amended, have the power to secure the payment of debts contracted by them, by mortgaging their real estate: Therefore, in order to remove such doubts,

Powers of corporations to give mortgages.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That it shall be lawful for the trustees of any such company to secure the payment of any debt contracted or to be contracted by them in the business for which they were incorporated, by mortgaging all or any part of the real estate of such company; and every mortgage of such trustees shall be as valid to all intents and purposes, as if executed by an individual owning the real estate: *Provided,* That the written assent of the stockholders owning more than two-thirds of the stock of the company shall first be given.

CHAP. 40.

AN ACT to authorize the formation of corporations for manufacturing, mining, mechanical, chemical, agricultural, horticultural, medical or curative, mercantile or commercial purposes.

PASSED February 17, 1848.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. At any time hereafter, any three or more persons who may desire to form a company for the purpose of carrying on any kind of manufacturing, mining, mechanical or chemical or other business, or the business of building and keeping a hotel, or for building and maintaining museums, or for curative purposes, may make, sign and acknowledge before some officer competent to take the acknowledgment of deeds, and file in the office of the clerk of the county in which the business of the company shall be carried on, and a duplicate thereof in the office of the Secretary of State, a certificate in writing, in which shall be stated the corporate name of the said company, and the objects for which the company shall be formed, the amount of the capital stock of the said company, the term of its existence not to exceed fifty years, the number of shares of which the said stock shall consist, the number of trustees and their names, who shall manage the concerns of said company for the first year, and the names of the town and county in which the operations of the said company are to be carried on.

Companies,
how to be
formed.

30 B., 645; as amended by Laws of 1866, ch. 799. Post, vol. 6, p. 833.

§ 2. When the certificate shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors shall be a body politic and corporate, in fact and in name, by the name stated in such certificate; and by that name have succession, and shall be capable of suing and being sued in any court of law or equity in this state, and they and their successors may have a common seal, and may make and alter the same at pleasure; and they shall, by their corporate name, be capable in law of purchasing, holding and conveying any real and personal estate whatever which may be necessary to enable the said company to carry on their operations named in such certificate, but shall not mortgage the same or give any lien thereon. 38 B., 622.

When to
become
bodies
corporate.

§ 3. The stock, property and concerns of such company shall be managed by not less than three nor more than nine trustees, who shall respectively be stockholders in such company and citizens of the United States, and a majority of whom shall be citizens of this state, who shall, except the first year, be annually elected by the stockholders, at such time and place as shall be directed by the by-laws of the company; and public notice of the time and place of holding such election shall be published not less than ten days previous thereto, in the newspaper printed nearest to the place

Trustees
to be
elected.

PART I.

where the operations of the said company shall be carried on, and the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy. All elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in the said company, and the persons receiving the greatest number of votes shall be trustees; and when any vacancy shall happen among the trustees, by death, resignation or otherwise, it shall be filled for the remainder of the year in such manner as may be provided for by the by-laws of the said company.

Election
may be held
on any day.

§ 4. In case it shall happen at any time, that an election of trustees shall not be made on the day designated by the by-laws of said company, when it ought to have been made, the company for that reason shall not be dissolved, but it shall be lawful on any other day, to hold an election for trustees, in such manner as shall be provided for by the said by-laws, and all acts of trustees shall be valid and binding as against such company, until their successors shall be elected.

Officers.

§ 5. There shall be a president of the company, who shall be designated from the number of the trustees, and also such subordinate officers as the company by its by-laws may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their office as the company by its by-laws may require.

Trustees to
make calls
on stock-
holders.

§ 6. It shall be lawful for the trustees to call in and demand from the stockholders respectively, all such sums of money by them subscribed, at such times, and in such payments or instalments as the trustees shall deem proper, under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon, if payment shall not be made by the stockholders within sixty days after a personal demand or notice requiring such payment shall have been published for six successive weeks in the newspaper nearest to the place where the business of the company shall be carried on as aforesaid.

To make
by-laws.

§ 7. The trustees of such company shall have power to make such prudential by-laws as they shall deem proper for the management and disposition of the stock and business affairs of such company, not inconsistent with the laws of this State, and prescribing the duties of officers, artificers and servants that may be employed; for the appointment of all officers, and for carrying on all kinds of business within the objects and purposes of such company.

Stock trans-
ferable.

§ 8. The stock of such company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or shall have been declared forfeited for the non-payment of calls thereon: And it shall not be lawful for such company to use any of their funds in the purchase of any stock in any other corporation.

Use of
funds.

§ 9. The copy of any certificate of incorporation, filed in pursuance of this act, certified by the county clerk or his deputy, to be a true copy, and of the whole of such certificate, shall be received in all courts and places, as presumptive legal evidence of the facts therein stated.

CH. XVIII.
Copy of certificate to be evidence

§ 10. All the stockholders of every company incorporated under this act, shall be severally individually liable to the creditors of the company in which they are stockholders, to an amount equal to the amount of stock held by them respectively for all debts and contracts made by such company, until the whole amount of capital stock fixed and limited by such company shall have been paid in, and a certificate thereof shall have been made and recorded as prescribed in the following section; and the capital stock, so fixed and limited, shall all be paid in, one half thereof within one year, and the other half thereof within two years from the incorporation of said company, or such corporation shall be dissolved.

Liability of stockholders.

22 N. Y., 553; 18 B., 152; 4 Bos., 406; 28 N. Y., 458.

§ 11. The president and a majority of the trustees, within thirty days after the payment of the last instalment of the capital stock, so fixed and limited by the company, shall make a certificate stating the amount of the capital so fixed and paid in; which certificate shall be signed and sworn to by the president and a majority of the trustees; and they shall, within the said thirty days, record the same in the office of the county clerk of the county wherein the business of the said company is carried on.

Certificate of the payment of stock to be filed.

§ 12. Every such company shall annually, within twenty days from the first day of January, make a report which shall be published in some newspaper, published in the town, city or village, or if there be no newspaper published in said town, city or village, then in some newspaper published nearest the place where the business of said company is carried on, which shall state the amount of capital, and of the proportion actually paid in, and the amount of its existing debts, which report shall be signed by the president and a majority of the trustees; and shall be verified by the oath of the president or secretary of said company, and filed in the office of the clerk of the county where the business of the company shall be carried on; and if any of said companies shall fail so to do, all the trustees of the company shall be jointly and severally liable for all the debts of the company, then existing, and for all that shall be contracted before such report shall be made.

Annual report to be made and published.

21 N. Y., 262, 451; 29 B., 196; 35 N. Y., 412; 28 N. Y., 459; 27 N. Y., 297; 41 B., 542.

§ 13. If the trustees of any such company shall declare and pay any dividend when the company is insolvent, or any dividend, the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be thereafter contracted, while they shall respectively continue in office:

Provision relative to dividends.

PART I.

Provided, That if any of the trustees shall object to the declaring of such dividend or to the payment of the same, and shall at any time before the time fixed for the payment thereof, file a certificate of their objection in writing with the clerk of the company and with the clerk of the county, they shall be exempt from the said liability. 35 N. Y., 412.

Stock to be paid in cash.

§ 14. Nothing but money shall be considered as payment of any part of the capital stock, and no loan of money shall be made by any such company to any stockholder, therein; and if any such loan shall be made to a stockholder, the officers who shall make it, or who shall assent thereto, shall be jointly and severally liable to the extent of such loan and interest, for all the debts of the company contracted before the re-payment of the sum so loaned.

Provision respecting false certificate or report.

§ 15. If any certificate or report made, or public notice given, by the officers of any such company, in pursuance of the provisions of this act, shall be false in any material representation, all the officers who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all the debts of the company contracted while they are stockholders or officers thereof.

Provision respecting stock held by executors, &c.

§ 16. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estates and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator or intestate, or the ward or person interested in such trust fund would have been, if he had been living and competent to act, and held the same stock in his own name. 41 B., 171.

Executors, &c., to vote at meetings

§ 17. Every such executor, administrator, guardian or trustee shall represent the share of stock in his hands at all meetings of the company, and may vote accordingly as a stockholder; and every person who shall pledge his stock as aforesaid, may nevertheless represent the same at all such meetings, and may vote accordingly as a stockholder.

Liability of stockholders.

§ 18. The stockholders of any company organized under the provisions of this act, shall be jointly and severally individually liable for all debts that may be due and owing to all their laborers, servants and apprentices, for services performed for such corporation.

This act may be altered or repealed.

§ 19. The legislature may at any time alter, amend or repeal this act, or may annul or repeal any incorporation formed or created under this act; but such amendment or repeal shall not, nor shall the dissolution of any such company take away or impair any remedy given against any such corporation, its stockholders or officers, for any liability which shall have been previously incurred.

§ 20. Any corporation or company heretofore formed, either by special act or under the general law, and now existing for any manufacturing, mining, mechanical or chemical purposes, or any company which may be formed under this act, may increase or diminish its capital stock by complying with the provisions of this act, to any amount which may be deemed sufficient and proper for the purposes of the corporation, and may also extend its business to any other manufacturing, mining, mechanical or chemical business, subject to the provisions and liabilities of this act. But before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital; and any existing company, heretofore formed under the general law, or any special act, may come under and avail itself of the privileges and provisions of this act by complying with the following provisions, and thereupon such company, its officers and stockholders shall be subject to all the restrictions, duties and liabilities of this act.

CH. XVIII.
Companies
may in-
crease or
diminish
stock.

§ 21. Whenever any company shall desire to call a meeting of the stockholders, for the purpose of availing itself of the privileges and provisions of this act, or for increasing or diminishing the amount of its capital stock, or for extending or changing its business, it shall be the duty of the trustees to publish a notice signed by at least a majority of them, in a newspaper in the county, if any shall be published therein, at least three successive weeks, and to deposite a written or printed copy thereof in the post office, addressed to each stockholder at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting; specifying the object of the meeting, the time and place, when and where such meeting shall be held, and the amount to which it shall be proposed to increase or diminish the capital, and the business to which the company would be extended or changed, and a vote of at least two-thirds of all the shares of stock shall be necessary to an increase or diminution of the amount of its capital stock, or the extension or change of its business as aforesaid, or to enable a company to avail itself of the provisions of this act.

Notice
thereof to
be given.

§ 22. If at any time and place specified in the notice provided for in the preceding section of this act, stockholders shall appear in person or by proxy, in number representing not less than two-thirds of all the shares of stock of the corporation, they shall organize by choosing one of the trustees chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present, in person or by proxy, and if on canvassing the votes it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, or of extending or

Meetings,
how to be
organized
and con-
ducted.

PART I

changing its business as aforesaid, or for availing itself of the privileges and provisions of this act, a certificate of the proceedings, showing a compliance with the provisions of this act, the amount of capital actually paid in, the business to which it is extended or changed, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed and verified by the affidavit of the chairman, and be countersigned by the secretary, and such certificate shall be acknowledged by the chairman, and filed as required by the first section of this act, and when so filed, the capital stock of such corporation shall be increased or diminished, to the amount specified in such certificate, and the business extended or changed as aforesaid, and the company shall be entitled to the privileges and provisions, and be subject to the liabilities of this act, as the case may be.

Indebted-
ness of com-
panies.

§ 23. If the indebtedness of any such company shall at any time exceed the amount of its capital stock, the trustees of such company assenting thereto shall be personally and individually liable for such excess to the creditors of such company.

Saving
clause.

§ 24. No stockholder shall be personally liable for the payment of any debt contracted by any company formed under this act, which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against such company within one year after the debt shall become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in any such company, for any debt so contracted, unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder in such company, nor until an execution against the company shall have been returned unsatisfied in whole or in part.

47 B., 161; 41 B., 171; 25 How. P. R., 75.

Book con-
taining the
names of
stockhold-
ers to be
kept with
amount of
stock.

§ 25. It shall be the duty of the trustees of every such corporation or company, to cause a book to be kept by the treasurer or clerk thereof, containing the names of all persons alphabetically arranged, who are or shall, within six years, have been stockholders of such company, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares; and the amount of stock actually paid in; which book shall, during the usual business hours of the day, on every day except Sunday and the fourth day of July, be open for the inspection of stockholders and creditors of the company, and their personal representatives, at the office or principal place of business of such company, in the county where its business operations shall be located; and any and every such stockholder, creditor or representative, shall have a right to make extracts from such book; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it shall be transferred

liable for the debts of the company, according to the provisions of this act, until it shall have been entered therein as required by this section, by an entry showing to and from whom transferred. Such book shall be presumptive evidence of the facts therein stated, in favor of the plaintiff, in any suit or proceeding against such company, or against any one or more stockholders. Every officer or agent of any such company, who shall neglect to make any proper entry in such book, or shall refuse or neglect to exhibit the same, or allow the same to be inspected, and extracts to be taken therefrom, as provided by this section, shall be deemed guilty of a misdemeanor, and the company shall forfeit and pay to the party injured, a penalty of fifty dollars for every such neglect or refusal, and all the damages resulting therefrom: And every company that shall neglect to keep such book open for inspection as aforesaid, shall forfeit to the people the sum of fifty dollars for every day it shall so neglect, to be sued for and recovered in the name of the people, by the district attorney of the county in which the business of such corporation shall be located; and when so recovered, the amount shall be paid into the treasury of such county for the use thereof.

18 B., 152.

§ 26. Every corporation created under this act shall possess the general powers and privileges and be subject to the liabilities and restrictions contained in title third, chapter eighteen of the first part of the Revised Statutes, and the provisions of section six, article first, title two, chapter thirteen of the first part of the Revised Statutes, shall apply to every such corporation.

General powers.

So amended by Laws of 1861, ch. 170. Post, p. 744.

[The following was added as section twenty-seven of this act, by Laws of 1854, ch. 201, and Laws of 1862, ch. 472.]

§ 27. Whenever any person or persons owning five per cent of the capital stock of any company, not exceeding one hundred thousand dollars, or any person or persons owning three per cent of the capital stock of any company exceeding one hundred thousand dollars, formed under the provisions of this act, shall present a written request to the treasurer thereof that they desire a statement of the affairs of such company, it shall be the duty of such treasurer to make a statement of the affairs of said company, under oath, embracing a particular account of all its assets and liabilities, in minute detail, and to deliver such statement to the person who presented the said written request to said treasurer, within twenty days after such presentation, and shall also at the same time and place keep on file in his office, for six months thereafter, a copy of such statement, which shall at all times during business hours be exhibited to any stockholder of said company demanding an examination thereof; such treasurer, however, shall not be required to deliver such statement in the manner aforesaid, oftener than once in any six

When treasurer to render statement of assets, &c.

PART I.

Forfeiture.

months. If such treasurer shall neglect or refuse to comply with any of the provisions of this act, he shall forfeit and pay to the person presenting said written request the sum of fifty dollars, and the further sum of ten dollars for every twenty-four hours thereafter until such statement shall be furnished, to be sued for and recovered in any court having cognizance thereof.

1b.

§ 28. Should not any such written statement as is required by section one of this act, be demanded during the year preceding the annual meeting of the stockholders of any company, formed under the provisions of this act, for the election of directors or trustees, it shall be the duty of the treasurer of every such company to prepare and exhibit to the stockholders then and there assembled, a general statement of the assets and liabilities of such company.

The title of this act was amended by Laws of 1866, ch. 838, post, vol. 6, p. 871, and ch. 799, post, vol. 6, p. 833; and its powers were extended by Laws of 1864, ch. 337, post, vol. 6, p. 268, and ch. 511, post, vol. 6, p. 300; by Laws of 1865, ch. 307, post, vol. 6, p. 461, and by Laws of 1866, ch. 73, 371, 799 and 838, post, vol. 6, pp. 671, 725, 833, 871.

CHAP. 14.

AN ACT to extend the operation and effect of the act passed February 17, 1848, entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes."

PASSED February 7, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Extended
to raising
of vessels.

§ 1. Any three or more persons may organize and form themselves into a corporation in the manner specified and required in and by the act entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes, passed February seventeenth, one thousand eight hundred and forty-eight," for the purpose of constructing and using machines for the raising of vessels or other heavy bodies.

Not limited
to county.

§ 2. Every corporation so formed shall be subject to all the provisions, duties and obligations contained in the above mentioned act, and shall be entitled to all the benefit and privileges thereby conferred, except that such corporations shall not be confined in their operations to the county in which their certificate shall be filed.

Ante, p. 733.

CHAP. 333.

AN ACT to amend an act to authorize the formation of corporations for manufacturing, mining, mechanical and chemical purposes, passed February 17, 1848.

PASSED June 7, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Any certificate hereafter filed, under the provisions of the above entitled act, may designate one or more places where the company may carry on their business. Certificate.

§ 2. The trustees of such company may purchase mines, manufactories, and other property necessary for their business, and issue stock to the amount of the value thereof in payment therefor; and the stock so issued shall be declared and taken to be full stock, and not liable to any further calls; neither shall the holders thereof be liable for any further payments under the provisions of the tenth section of the said act; but in all statements and reports of the company, to be published, this stock shall not be stated or reported as being issued for cash paid in to the company, but shall be reported in this respect according to the fact. Company may purchase mines, manufactories, &c., and issue stock.

CHAP. 301.

AN ACT to extend the operation and effect of the act passed February 17, 1848, entitled "An act to authorise the formation of corporations for manufacturing, mining, mechanical or chemical purposes."

PASSED April 12, 1855.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Any three or more persons may organise themselves into a corporation in the manner specified and required in and by the act entitled "An act to authorise the formation of corporations for manufacturing, mining, mechanical or chemical purposes," passed February seventeenth, one thousand eight hundred and forty-eight, for the purpose of collecting, storing and preserving ice, of preparing it for sale, of transporting it to the city of New York or elsewhere, and of vending the same. Extended to preserving ice.

§ 2. Every corporation so formed shall be subject to all the provisions, duties and obligations contained in the above mentioned act, and shall be entitled to all the benefits and privileges thereby conferred, except that such corporations Made subject to other laws.

PART I.

shall not be confined in their operations to the county in which their certificate shall be filed.

Ante, p. 733.

CHAP. 29.

AN ACT to amend an act entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," passed February 17, 1848.

PASSED February 16, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Salt companies when to pay in stock

§ 1. No incorporated company organized or hereafter to be organized for the manufacture of salt under the "Act to authorise the formation of corporations for manufacturing, mining, mechanical or chemical purposes," passed February 17, 1848, shall be deemed dissolved, or shall be dissolved, on account of the capital stock of such company not being paid in, the one-half within one year, and the other half within two years from the incorporation of said company, provided that such stock shall be paid in within four years from the organization of such company.

Term of existence may be extended.

§ 2. Whenever any company, formed under said act, shall have fixed the duration of its corporate existence for a less period than it was privileged to do, by the first section of said act, it may by a vote of the stockholders representing a majority of the stock, and upon executing and acknowledging a new or amended certificate under its corporate seal, signed by the president and two-thirds of its directors, and filing the same in the county where its business shall be carried on, and in the office of the secretary of state, extend the term of its corporate existence, to a period not longer than it could have originally fixed the same, and shall thereupon possess all the powers and privileges, and be subject to all the liabilities mentioned in said act during such extension of its existence.

Principal place of business.

§ 3. If any company shall be formed under said act, for the purpose of carrying on any part of its business, in any place out of this state, the said certificate shall so state, and shall also state the name of the town and county in which the principal part of the business of said company within this state is to be transacted, and said town and county shall be deemed the town, place and county in which the operations and business of the company are to be carried on, and its principal place of business within the meaning of the provisions of this act.

CHAP. 262.

AN ACT to amend the "Act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," passed February seventeenth, eighteen hundred and forty-eight.

PASSED April 6, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The first section of the "Act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," passed February seventeenth, eighteen hundred and forty-eight, is hereby amended by inserting after the words "any kind of manufacturing, mining, mechanical or chemical business," the words "or the business of printing and publishing books, pamphlets and newspapers."

Extended
to printing
and pub-
lishing.

Ante, p. 733.

CHAP. 269.

AN ACT to amend the act entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical and chemical purposes," passed February seventeenth, eighteen hundred and forty-eight.

PASSED April 11, 1860.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The act entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical and chemical purposes," passed February seventeenth, eighteen hundred and forty-eight, is hereby amended so as to allow corporations to be hereafter organized under said act, with not less than three and not more than thirteen trustees, instead of being limited to nine in number, as provided in said act.

Number of
trustees.

§ 2. The number of trustees in any corporation heretofore organized under the said act may be increased to not more than thirteen, as follows: The existing trustees of any such corporation, or a majority thereof, shall make and sign a certificate declaring how many trustees the corporation shall have in the future management of its business, and stating the names of the new or additional trustees, which certificate shall be acknowledged or proved by a subscribing witness, and shall be filed in the office of the secretary of state, and in the clerk's office of the county where the original certificate of corporation was filed; and from and after the filing of

May be
increased

PART I.

such certificate the trustees of such corporation shall be deemed increased to the number therein stated, and the persons so named shall be trustees until a new election of trustees shall be had, according to said act and the by-laws or regulations of said corporation. Ante, p. 733.

CHAP. 170.

AN ACT to amend an act entitled "An act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes," passed February seventeenth, eighteen hundred and forty-eight.

PASSED April, 12, 1861.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

[§ 1 amends Laws of 1848, ch. 40.] Ante, p. 739.

Place of
business.

§ 2. No company organized under the provisions of said act to authorize the formation of corporations for manufacturing, mining, mechanical or chemical purposes shall be deemed or taken to have a principal office or place for transacting its financial concerns other than that at which the operations of said company are carried on, unless within the month of May in each year the president and treasurer, or a majority of the trustees, shall make duplicate certificates stating the amount of the then capital of said company, and the portion of such capital not invested in real estate, and stating that such company then has a principal office for transacting its financial concerns in a county other than that in which the operations of said company are carried on, stating the town or city and county in which such financial office is located, and that the president and treasurer, and a majority of the trustees of said company are then actually residents of the town or city in which such financial office is then located, which duplicate certificates shall be signed and sworn to by the persons making the same and filed, the one in the clerk's office of the county where the operations of said company are carried on, and the other in the clerk's office of the county in which such financial office shall be. And in case in any year such duplicate certificates shall be made and filed as aforesaid, then during the year succeeding the first day of June next after the filing of such certificates, the personal estate of such company shall be assessed only in the town or ward named in said certificates, as that in which such financial office is located.

CHAP. 215.

AN ACT in relation to burying grounds.

PASSED April 11, 1842.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. It shall not be lawful for any church or religious corporation to mortgage any burying ground used for the interment of human remains, for the use of which they shall have received compensation, without the previous consent in writing of three-fourths in number of the congregation or society of such church or corporation; which consent shall be proved or acknowledged, in the same manner as deeds are now required by law to be proved or acknowledged, and shall thereupon be recorded in the office of the register of the city, or clerk of the county, in which such burying ground is situated.

Provisions concerning mortgages.

§ 2. It shall not be lawful for any person or persons to remove any dead body or human remains from any burying ground, for the interment of which compensation shall have been received by any church or religious corporation, or by any officer or officers thereof, and which shall have been used for that purpose during the last three years, with the intent to convert the said burying ground to any other purpose, without having first obtained the consent in writing of three-fourths in number of the congregation or society of such church or corporation; and which consent shall be proved or acknowledged and recorded in the manner prescribed by the first section of this act, before any such removal shall be commenced or attempted.

Relative to removing human remains.

§ 3. Any person offending against any of the provisions of the second section of this act shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

Penalties.

CHAP. 133.

AN ACT authorizing the incorporation of rural cemetery associations.

PASSED April 27, 1847.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any number of persons residing in this state, not less than seven, who shall desire to form an association for the purpose of procuring and holding lands to be used exclusively

Corporations, how to be created.

PART I.

for a cemetery, or place for the burial of the dead, may meet at such time and place as they or a majority of them may agree, and appoint a chairman and secretary by the vote of a majority of the persons present at the meeting; and proceed to form an association by determining on a corporate name, by which the association shall be called and known; by determining on the number of trustees to manage the concerns of the association, which number shall not be less than six, nor more than twelve; and thereupon may proceed to elect by ballot, the number of trustees so determined on; and the chairman and secretary shall immediately after such election, divide the trustees by lot, into three classes; those in the first class to hold their office one year, those in the second class two years, and those in the third class three years. But the trustees of each class, may be re-elected if they shall possess the qualification hereinafter mentioned. The meeting shall also determine on what day in each year, the future annual elections of trustees shall be held.

Certificate
of incorpo-
ration.

§ 2. The chairman and secretary of the meeting, shall within three days after such meeting, make a written certificate, and sign their names thereto, and acknowledge the same before an officer authorized to take the proof and acknowledgment of conveyances in the county where such meeting shall have been held, which certificate shall state the names of the associates who attended such meeting; the corporate name of the association, determined upon by the majority of the persons who met; the number of trustees fixed on, to manage the concerns of the association; the names of the trustees chosen at the meeting, and their classification, and the day fixed on for the annual election of trustees; which certificate it shall be the duty of the chairman and secretary of such meeting, to cause to be recorded in the clerk's office of the county in which the meeting was held, in a book to be appropriated to the recording of certificates of incorporation.

General
powers.

§ 3. Upon such certificate, duly acknowledged as aforesaid being recorded, the association mentioned therein, shall be deemed legally incorporated, and shall have and possess the general powers and privileges, and be subject to the liabilities and restrictions contained in the third title of the eighteenth chapter of part first of the Revised Statutes. The affairs and property of such associations, shall be managed by the trustees, who shall annually appoint from among their number, a president and a vice-president, and shall also appoint a secretary and a treasurer, who shall hold their places during the pleasure of the board of trustees; and the trustees may require the treasurer to give security for the faithful performance of the duties of his office.

See Laws of 1852, ch. 280. Post, p. 752.

Land may
be purchas-
ed for ceme-
teries.

§ 4. Any association incorporated under this act, may take by purchase or devise, and hold, within the county in which the certificate of their incorporation is recorded, not exceeding

two hundred acres of land ; to be held and occupied exclusively for a cemetery for the burial of the dead. Such land or such parts thereof, as may from time to time be required for that purpose, shall be surveyed and sub-divided into lots or plats of such size as the trustees may direct, with such avenues, paths, alleys and walks as the trustees deem proper ; and a map or maps of such surveys, shall be filed in the clerk's office of the county in which the land shall be situated. And after filing such map, the trustees may sell and convey the lots or plats designated on such map, upon such terms as shall be agreed, and subject to such conditions and restrictions, to be inserted in or annexed to the conveyances, as the trustees shall prescribe. The conveyances to be executed under the common seal of the association, and signed by the president or vice-president, and the treasurer of the association. Any association incorporated under this act, may hold personal property to an amount not exceeding five thousand dollars, besides what may arise from the sale of lots or plats.

§ 5. The annual election for trustees to supply the place of those whose term of office expires, shall be holden on the day mentioned in the certificate of incorporation, and at such hour and place as the trustees shall direct, at which election shall be chosen such number of trustees as will supply the places of those whose term expires. But the trustees of any corporation, organized under this act, shall have power, by resolution of a majority of all of said trustees, to change the time for the annual election of trustees as fixed in their act of incorporation ; but no such resolution shall take effect until sixty days after the same shall have been published six successive weeks, once a week, in some newspaper published in the city or county where the said association is situated, and a copy of said resolution, certified by the president and secretary thereof, shall have been filed in the office of the clerk of the county where their certificate of incorporation is recorded.

The trustees chosen at any election subsequent to the first, shall hold their places for three years and until others shall be chosen to succeed them. The election shall be by ballot, and every person of full age, who shall be proprietor of a lot or plat in the cemetery of the association, containing not less than ninety-six square feet of land, or if there are more than one proprietor of any such lot or plat, then such one of the proprietors as the majority of joint proprietors shall designate to represent such lot or plat, may either in person or by proxy give one vote for each plat or lot of the dimensions aforesaid, and the persons receiving a majority of all the votes given at such election shall be trustees to succeed those whose term of office expires. But in all elections after the first, the trustees shall be chosen from among the proprietors of lots or plats. And the trustees shall have power to fill any vacancy in their number occurring during the period for which they hold their office. Public notice of the annual elections shall be given

Election of
trustees.

PART I.

in such manner as the by-laws of the corporation shall prescribe.

Thus amended by Laws of 1860, ch. 163, and 1861, ch. 94. Post, p. 756.

Trustees
to report.

§ 6. The trustees at each annual election, shall make reports to the lot proprietors of their doings, and of the management and condition of the property and concerns of the association. If the annual election shall not be held on the day fixed in the certificate of incorporation, the trustees shall have power to appoint another day, not more than sixty days thereafter, and shall give public notice of the time and place, at which time the election may be held with like effect as if holden on the day fixed on in the certificate. The office of the trustees chosen at such time, to expire at the same time as if they had been chosen at the day fixed by the certificate of incorporation.

[For § 7 see Laws of 1852, ch. 280, and Laws of 1853, ch. 122. Post, pp. 751, 752.]

Penalty for
injuring
monuments
&c.

§ 8. Any person who shall wilfully destroy, mutilate, deface, injure or remove any tomb, monument, grave stone, building or other structure, placed in any cemetery of any association incorporated under this act, or any fence, railing or other work for the protection or ornament thereof, or of any tomb, monument, or grave stone, or other structures aforesaid, or of any plat or lot within such cemetery, or shall wilfully destroy, cut, break or injure any tree, shrub or plant, within the limits of such cemetery, shall be deemed guilty of a misdemeanor; and such offender shall also be liable in an action of trespass; to be brought in all such cases in the name of such association, to pay all such damages as shall have been occasioned by his unlawful act or acts. Such money when recovered shall be applied by the trustees to the reparation or restoration of the property so destroyed or injured.

Property
may be held
for improv-
ing ceme-
tery.

§ 9. Any association incorporated pursuant to this act, may take and hold any property, real or personal, bequeathed or given upon trust, to apply the income thereof under the direction of the trustees of such association, for the improvement or embellishment of such cemetery, or the erection or preservation of any buildings, structures, fences or walks, erected or to be erected upon the lands of such cemetery association, or upon the lots or plats of any of the proprietors; or for the repair, preservation, erection or renewal of any tomb, monument, grave stone, fence, railing, or other erection, in or around any cemetery lot, or plat; or for planting and cultivating trees, shrubs, flowers or plants, in or around any such lot or plat, or for improving or embellishing such cemetery, or any of the lots or plats in any other manner or form, consistent with the design and purposes of the association according to the terms of such grant, devise or bequest.

Cemetery
and prop-
erty not
liable to be
sold.

§ 10. The cemetery lands and property of any association, formed pursuant to this act, shall be exempt from all public taxes, rates, and assessments; and shall not be liable to be sold on execution, or be applied in payment of debts, due

from any individual proprietors. But the proprietors of lots or plats in such cemeteries, their heirs, or devisees, may hold the same exempt therefrom so long as the same shall remain dedicated to the purpose of a cemetery, and during that time, no street, road, avenue, or thoroughfare shall be laid through such cemetery, or any part of the lands held by such association, for the purposes aforesaid; without the consent of the trustees of such association, except by special permission of the legislature of the state.

§ 11. Whenever the said land shall be laid off into lots or plats, and such lots or plats or any of them shall be transferred to individual holders, and after there shall have been an interment in a lot or plat so transferred, such lot or plat from the time of such first interment shall be forever thereafter inalienable, and shall upon the death of the holder or proprietor thereof descend to the heirs at law of such holder or proprietor, and to their heirs at law forever: Provided, nevertheless, that any one or more of such heirs at law may release to any other of the said heirs at law his, her or their interest in the same, on such conditions as shall be agreed on and specified in such release, a copy of which release shall be filed with the town clerk of the town or the register of the city within which the said cemetery shall be situated. And provided further, that the body of any deceased person shall not be interred in such lot or plat, unless it be the body of a person having at the time of such decease an interest in such lot or plat, or the relative of some person having such interest, or the wife of such person, or her relative, except by the consent of all persons having an interest in such lot or plat.

Transfers of
lots and
plats to in-
dividuals.

See Laws of 1853, ch. 122. Post, p. 753.

§ 12. The Legislature may at any time alter or repeal this act. Right to
appeal.

CHAP. 209.

AN ACT in relation to cemeteries in incorporated villages.

PASSED May 7, 1847; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The legal voters of any incorporated village, at any meeting thereof, lawfully convened, may, by resolution, direct the trustees of such village, to purchase suitable lands for a burying ground for such village, or lands in addition to any burying ground now owned by said village, upon such terms and conditions, not inconsistent with this act, as such meeting shall prescribe; but the whole expense of purchasing such ground, or additional lands, in any village, fencing the same, and putting it in proper condition to be used as a burying ground, shall not exceed twenty-five hundred dollars, unless the population of the village shall exceed four thou-

The legal
voters may
direct the
purchase
of land.

PART I.

sand persons, nor more than four thousand dollars in any case. And the title of such burying ground, when so purchased, shall be vested in such village, by its corporate name, and shall be inalienable, except in the manner and for the purposes hereinafter mentioned.

As amended by Laws of 1864, ch. 117. Post, vol. 6, p. 238.

Provision
for impos-
ing a tax.

§ 2. No such resolution shall have any force or effect, unless it shall provide for imposing, levying and collecting a general tax upon the taxable property in such village, sufficient to pay all the expenses of such purchase, and fencing the land so purchased, and putting them in a proper condition to be used for a burying ground, to be levied and collected within one year, or in equal portions within three years from the time of the adoption of such resolution, which, so far as respects the levying and collecting of such tax, shall not be altered. And every such tax shall be collected in the manner, and within the time specified in this section, and when so collected, shall be applied to the purpose in this section specified, and to no other.

Notice to
be given
previous to
meeting.

§ 3. No such resolution for the purchase of a burying ground, and for imposing, levying and collecting such tax, shall be passed at any such meeting, by virtue of the provisions of this act, unless notice of an intention to move for the adoption of such a resolution, at such meeting, shall be given, previous to holding the same, by publishing such notice at least once in each week, for four successive weeks, in a public newspaper, published in the village in which such meeting is to be held, or in case no newspaper be published in such village, by posting up such notice in at least ten public places in such village, at least thirty days before the time of holding such meeting. And before any such resolution shall be adopted, proof, by affidavit, of publishing or posting such notice as herein provided, shall be filed with the trustees of such village.

Trustees
may pass
ordinances.

§ 4. Such trustees shall from time to time make such ordinances, as they shall think proper, not inconsistent with the laws of this state, or of the United States, in respect to such burying ground, the conveyance of lots therein to individuals for the purpose of interments, interments in such lots and portions of such grounds not so conveyed, and the management of such ground; and may enforce such ordinances by penalties not exceeding twenty dollars, to be sued for and recovered with costs, in the corporate name of the village, for its use in any court having jurisdiction thereof.

Burying
ground to
be laid out
in lots.

§ 5. Such burying ground shall be laid out into suitable lots, pursuant to the ordinances of such trustees, and they may, on such terms and conditions as shall be thereby prescribed, and for such prices as shall be agreed to by them, on behalf of such village, convey any of such lots to individuals, for the sole purpose of making interments therein by conveyances which may be acknowledged and recorded as other conveyances of real estate, and which shall be recorded by

the clerk of such village, in a suitable book to be kept by him; but no such conveyance shall be executed for any such lot until the price thereof shall be paid to such village.

§ 6. It shall be the duty of the trustees of every village in which there shall be a burying ground, purchased by means raised by a general tax, upon the taxable property in such village, to reserve a reasonable portion of such ground for the interment of strangers, and other persons who may die in such village, under such circumstances that it would be unreasonable to require payment for the privilege of making such interment.

Interment
of strangers

§ 7. It shall be the duty of the trustees of every village in which there shall be a burying ground so purchased, to cause an accurate record to be kept of every interment therein, and the time when made, and the name, age, and place of birth of every person buried therein, when these particulars can be conveniently ascertained; and such record shall be so kept as to show the lot and part of the lot in which each interment shall be made.

Record of
interments.

§ 8. A general tax, not exceeding one hundred and fifty dollars in any one year, may be imposed, levied and collected, on the taxable property in any village owning a burying ground, for the purpose of improving the same; such tax shall be imposed in the manner prescribed by law for imposing such general taxes in such village, as are now authorized by law to be imposed thereon for village purposes; and when collected, shall be applied to improving such burying ground.

Tax to im-
prove bury-
ing ground.

CHAP. 280.

AN ACT further to amend the act entitled "An act authorizing the incorporation of rural cemetery associations," passed April 27, 1847.

PASSED April 14, 1852.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The seventh section of the act entitled "An act authorizing the incorporation of rural cemetery associations," passed April 27, 1847, shall be amended so as to read as follows: All lots or plats of ground designated on the maps filed as aforesaid, and numbered thereon as separate lots by the incorporation, shall be indivisible, but may be held and owned in undivided shares; but any lots or plats so designated and numbered remaining unsold, and in which there shall have been no interment, may by order of the trustees be resurveyed, enlarged, subdivided, or altered in shape or size, and designated by numbers or otherwise, on any map or maps which may be filed pursuant to the fourth section of the act hereby amended; one-half, at least, of the proceeds of all sales

Lots num-
bered on
maps as se-
parate lots,
to be indi-
visible.

PART I.

of lots or plats shall be first appropriated to the payment of the purchase money of the lands acquired by the association until the whole purchase money shall be paid, and the residue thereof to preserving, improving, and embellishing the said cemetery grounds, and the avenues or roads leading thereto, and to defray the incidental expenses of the cemetery establishment, and after the payment of the purchase money and the debts contracted therefor, and for surveying and laying out the land, the proceeds of all future sales shall be applied to the improvement, embellishment, and preservation of such cemetery, and for incidental expenses, and to no other purpose or object.

Vacancy in office of president or vice-president.

See Laws of 1853, ch. 122. Ante, p. 748.

§ 2. The third section of said act shall be amended by adding thereto as follows: And shall have power to fill any vacancy in the office of president or vice-president occurring during the year for which they hold their office.

[For § 3 see Laws of 1854, ch. 238.] Post, p. 755.

When incorporation desires to use any lands, must give notice.

§ 4. Any such incorporation desiring to use any lands for cemetery purposes, or take a conveyance thereof, shall cause notice to be published once a week for six weeks in every newspaper published in the county in which such lands are situated, of their intention to apply to the board of supervisors of such county, stating the time at which such application will be made for the consent mentioned in the first section of this act. Such notice shall contain a brief description of the lands for which such consent is asked, and also their location and the number of acres. At such meeting upon due proof of the publication of the notice above mentioned the applicants and remonstrants, if any, may be heard in person and by counsel, and thereupon if such board shall grant consent, it shall be lawful for such incorporation to take and hold the lands designated in such consent not exceeding two hundred and fifty acres in any county.

To apply to associations heretofore formed.

§ 5. This act shall take effect immediately, and the first and second sections hereof shall apply as well to associations heretofore organized as to such as may be hereafter.

CHAP. 122.

AN ACT to amend an act entitled "An act authorizing the incorporation of rural cemetery associations," passed April 27, 1847.

PASSED April 5, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Amendment.

§ 1. Section seven of the act entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, is hereby amended by adding at the end of the said section the following provision, to wit:

CH. XVIII.
Agreement
as to pay-
ment for
lands.

Associations formed under this act may also agree, with the person or persons from whom cemetery lands shall be purchased, to pay for such lands, as the purchase price thereof, any specified share or portion, not exceeding one-half, the proceeds of all sales of lots or plots made from such lands; in which case the share or portion of such proceeds so agreed upon, not exceeding one-half thereof, shall be first appropriated and applied to the payment of the purchase money of the lands so acquired, and the residue thereof shall be appropriated to preserving, improving and embellishing the said cemetery grounds and the avenues or roads leading thereto, and to defraying the incidental expenses of the cemetery establishment. In all cases where cemetery lands shall be purchased and agreed to be paid for in the manner hereinbefore last provided, the prices for lots or plots, specified in the by-laws, rules and regulations first adopted by any such association, shall not be changed without the written consent of a majority in interest of the persons from whom the cemetery lands were purchased, their heirs, representatives or assigns.

Section eleven is hereby amended by adding the following:

It shall be lawful for the trustees of any cemetery association to sell and convey lots and plots of ground within the cemetery limits, as shown on the map of the same, filed in the office of the clerk of the county wherein the same may be situated, without previously filing in the said clerk's office a map of each lot so intended to be conveyed; provided however that the said corporation shall preserve a map of each lot and plot conveyed and on which shall be designated the number thereof.

Sale of lots
to be made
without
filing map
of each lot.

Ante, pp. 748, 749.

CHAP. 629.

AN ACT for the protection of birds in public cemeteries.

PASSED July 21, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any person who shall kill or wound or trap any bird within any cemetery or public burying ground, or who shall destroy any bird's nest, or remove the eggs or the young birds therefrom, shall be deemed guilty of a misdemeanor, punishable by a fine of five dollars for every bird killed, wounded or trapped, and for every bird's nest destroyed, or eggs or young birds removed, recoverable in any justices' court within the county where the offence has been committed, to be sued for by any person making the complaint. The penalty to go towards the support of the poor of the county.

Penalty for
killing
birds.

§ 2. Any person who shall knowingly buy or sell any bird which has been killed or trapped, or shall have such birds on sale, shall be deemed guilty of a misdemeanor, punishable by

Buying and
selling.

PART I.

a fine of five dollars for every bird bought, sold or on sale, to be recovered and to be disposed of in like manner as provided for in the first section of this act. Post, p. 756.

CHAP. 112.

AN ACT for the incorporation of private and family cemeteries.

PASSED April 1, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Private or family cemeteries may be incorporated in the manner hereinafter prescribed.

Corpora-
tion, how
formed.

§ 2. Any number of persons desirous of availing themselves of the provisions of this act may purchase or set off, for a private cemetery, land to the extent of not more than three acres; and after inclosing the same shall cause to be published in a newspaper printed in the county where the land is situated, or if there be no newspaper printed in that county, then in one printed in an adjoining county, a notice that a meeting of the proprietors of the land so purchased or set off will be held at the time and place designated, such notice to be published at least once in each week for six weeks successively next previous to the time of meeting; such meeting shall consist of not less than seven of said proprietors, and shall then and there elect not less than three of their number as trustees to manage the affairs of such corporation for a period of five years; and in case of the death or resignation of either of said trustees, the surviving or remaining trustees shall be authorized to fill the vacancy for the residue of the term from the members of the corporation, and at the end of said term new trustees shall be chosen in the same manner.

Certificate
to be filed.

§ 3. The chairman and secretary of the meeting shall make a written certificate and sign their names thereto, and acknowledge the same before an officer authorized to take the acknowledgment of deeds, containing the names of said trustees and the title of said corporation, and a description of the land, and shall file the same in the office of the clerk of the county in which the land so set apart is situated, and thereupon the said proprietors shall be deemed legally incorporated, and shall possess the general powers and be subject to the general liabilities which corporations by law possess and are subject to; a certified copy of such certificate shall be evidence in all courts and places of the formation of such corporation.

Location
and encl-
sure.

§ 4. No cemetery shall be established under this law that shall not be inclosed by a suitable fence or wall, nor shall such cemetery be hereafter located at a less distance than one

hundred rods from any dwelling-house, without the written consent of the owner or owners thereof.

§ 5. Every person who shall pull down or deface any fence, monument or stone in or about any private cemetery incorporated under this act, shall forfeit to the said corporation a sum not exceeding five hundred dollars for each offence, to be recovered in a court of record, and such offender shall be adjudged guilty of a misdemeanor.

Penalty for
injuring
fences or
stones.

§ 6. Cemeteries which have heretofore been used for private or family interments may be incorporated under the provisions of this act, subject to the provisions and conditions therein prescribed.

Existing
cemeteries.

CHAP. 238.

AN ACT to amend an act passed April 14, 1852, entitled
“An act further to amend the act entitled ‘An act authorizing the incorporation of rural cemetery associations,’”
passed April 27, 1847.

PASSED April 15, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The third section of the act passed April fourteenth, eighteen hundred and fifty-two, entitled “An act further to amend the act entitled ‘An act authorizing the incorporation of rural cemetery associations,’” passed April twenty-seventh, eighteen hundred and forty-seven, shall be and is hereby so amended as to read as follows:

Section
amended.

§ 3. It shall not be lawful for any rural cemetery, hereafter incorporated under the act hereby amended, to take by deed, devise or otherwise, any land in either of the counties of Westchester, Kings or Queens, or set apart any ground for cemetery purposes therein, without the consent of the board of supervisors of such county first had and obtained as provided for by this act; nor shall it be lawful for any person or incorporation, not incorporated under said act, to take as aforesaid or set apart or use any land or ground in either of said counties for cemetery purposes, without the consent of the board of supervisors of such county first had and obtained in like manner as provided for in this act; and said board of supervisors in granting such consent may annex thereto such conditions, regulations and restrictions as such board may deem the public health or the public good to require. *Ante*, p. 752.

Consent of
supervisors
to be ob-
tained.

§ 2. Nothing contained in the preceding section shall prevent any ecclesiastical incorporation now organized in either of said counties from using any burial ground now belonging to it within such county, as it has been heretofore accustomed.

Not to affect
religious
societies.

PART I.
Supervisors
may regu-
late burials.

§ 3. The board of supervisors of each of said counties is authorized to make, from time to time, such regulations as to the mode of burials in any cemetery within their bounds as they shall judge the public health or public decency to require, and it shall not be lawful to disobey such regulations.

CHAP. 564.

AN ACT to amend an act entitled "An act for the protection of birds in public Cemeteries," passed July 21, 1853.

PASSED April 19, 1853.

The People of the State of New York represented in Senate and Assembly, do enact as follows:

Original act
extended.

§ 1. The provisions of the act passed July twenty-one, eighteen hundred and fifty-three, entitled "An act for the protection of birds in public cemeteries," shall apply to every place within the distance of two miles of the boundaries of the Greenwood cemetery enclosure in the county of Kings.

Ante, p. 753.

CHAP. 163.

AN ACT to amend the act entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven

PASSED April 5, 1860; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Outstand-
ing indebt-
edness.

§ 1. It shall be lawful for the trustees of any rural cemetery association organized under the act entitled "An act authorizing the incorporation of rural cemetery associations," passed April twenty-seventh, eighteen hundred and forty-seven, and the acts amending the same, to fund any outstanding indebtedness, for lands purchased for cemetery purposes, or for moneys actually expended in preserving, improving and embellishing the cemetery grounds, and to provide for the payment of such funded debt, in the manner hereinafter provided.

May issue
certificates.

§ 2. Whenever the trustees, by a vote of two-thirds of all the trustees elected, shall desire to fund such indebtedness, it shall be their duty to ascertain the amount of obligations outstanding for the purchase money of the lands acquired by the association, and the amount of obligations outstanding for preserving, improving and embellishing the cemetery grounds, and thereupon, with the consent of any creditor to whom such indebtedness, or any part thereof, may be due and owing,

the said trustees shall have power to issue certificates for the amount thereof, in sums of one hundred dollars each, payable at such time, and drawing such interest as may be agreed upon, in satisfaction and discharge of such indebtedness, or such part thereof, but no certificate shall be issued for any fractional part of one hundred dollars, nor drawing any higher rate of interest than seven per cent per annum. The said certificates shall be sealed with the corporate seal of the association, and signed by the president and treasurer thereof. They shall be deemed personal property, and shall be transferable by delivery, unless otherwise provided on the face thereof, and an exact and true account of the number and amount of the said certificates, the persons to whom issued, the time of maturity and the rate of interest, shall be accurately entered on the books of the association.

§ 3. The trustees shall keep a distinct and separate account in the cemetery books, of the certificates issued for the purchase money of lands acquired by the association, and the certificates issued for debts incurred in improving and embellishing the cemetery grounds; and it shall be their duty, at least twice in each year, to apply the proceeds of all sales of lots and plats, in redemption of such certificates, severally, in the manner provided by the seventh section of the act hereby amended, and, upon such redemption, they shall cancel the same on their books and destroy the certificates returned. Until the said certificates shall be redeemed, the holders of the same shall be entitled to vote at all elections and business meetings of the corporation, one vote for each and every certificate of one hundred dollars, held by such voter.

Distinct and separate account to be kept.

§ 4. Nothing in this act contained shall be construed to create a lien upon lots or plats belonging to individual proprietors, within the cemetery limits, nor any other or greater liability against the association or trustees issuing said certificates, than may be necessary to enforce the faithful application of the proceeds of sales, in the redemption thereof, in the manner aforesaid.

Not to create a lien upon lots of individual proprietors.

Ante, p. 745.

CHAP. 169.

AN ACT to promote agriculture.

PASSED May 5, 1841.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

[Section 1 temporary.]

§ 2. When the New York State Agricultural Society, and any county agricultural society now formed, or which may hereafter be formed in this state, or the American Institute in the city of New York, shall raise by voluntary subscription, any sum of money, the president and treasurer shall make

Societies raising money to receive an equal sum from the state.

PART I.

and subscribe an affidavit of the facts of the formation of such society, and of their having raised a certain sum, specifying the amount thereof, which affidavit shall be filed with the Comptroller of this state, who shall draw his warrant on the Treasurer for a sum equal to the amount of such voluntary subscription, not however exceeding the amount to which such county or state society would be entitled, according to the apportionment aforesaid.

Officers to
be elected,
and their
duties.

§ 3. The New York State Agricultural Society and the several county agricultural societies now formed or which shall be formed in this state, during the continuance of this act, shall annually elect such and so many officers as they shall deem proper; and it shall be the duty of such officers annually, to regulate and award premiums on such articles, productions and improvements as they may deem best calculated to promote the agricultural and household manufacturing interests of this state, having especial reference to the net profits which accrue, or are likely to accrue, from the mode of raising the crop or stock, or the fabrication of the article thus offered, with the intention that the reward shall be given for the most economical or profitable mode of competition: provided always that before any premium shall be delivered, the person claiming the same, or to whom the same may be awarded, shall deliver in writing to the president of the society, as accurate a description of the process in preparing the soil, including the quantity and quality of the manure applied, and in raising the crop, or feeding the animal, as may be; and also of the expense and product of the crop, or of increase in the value of the animal, with the view of showing accurately the profit of cultivating the crop, or feeding or fattening the animal.

Accounts to
be rendered
to the comp-
troller.

§ 4. The president of the State Agricultural Society, and the several presidents of the said county societies, who shall receive or expend any of the moneys hereby appropriated, shall annually, in the month of December, transmit to the Comptroller, a detailed account of the expenditure of all the moneys which shall come into their hands under this act, and stating to whom and for what purpose paid, with the vouchers thereof; and the said presidents of the several county agricultural societies shall annually transmit in the month of December, to the executive committee of the New York State Agricultural Society, all such reports or returns as they are required to demand and receive from applicants for premiums, together with an abstract of their proceedings during the year.

Condensed
reports to
be made.

§ 5. The executive committee of the New York State Agricultural Society shall examine all reports and returns made by the presidents of the county agricultural societies, and condense, arrange and report the same, together with a statement of their own proceedings, to the Secretary of State, in the month of January in each year.

§ 6. The presidents of the several county societies, or a delegate to be chosen by them annually for the purpose, shall be, ex officio, members of the New York State Agricultural Society.

CH. XVIII.
Members of
state so-
ciety.

As amended by Laws of 1844, ch. 336.

§ 7. It shall be the duty of the county clerks, in the several counties in this state, to cause notice to be given in one or more newspapers in each county, of the time and place of a meeting to be held in such county for the purpose of organizing such county agricultural society; and notice shall be given at least four weeks previous to such meeting.

Duty of
county
clerks.

CHAP. 336.

AN ACT to amend the "Act to promote agriculture,"
passed May 6, 1841.

PASSED May 7, 1844.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The president of the American Institute of the city of New York is required to make the like reports as are required by the fourth section of "An act to promote agriculture," passed May 6, 1841, to be annually made by the presidents of the several county agricultural societies, to the comptroller and to the executive committee of the New York State Agricultural Society, on or before the first day of February in each year.

American
Institute to
report.

§ 2. The report and statement required by the fifth section of the said act, to be made by the executive committee of the New York State Agricultural Society, in the month of January, may be made to the legislature, on or before the first day of March in each year.

State so-
ciety, when
to report.

CHAP. 299.

AN ACT to provide for the distribution of the moneys appropriated to promote agriculture, and for other purposes.

PASSED April 12, 1848; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The moneys appropriated for the promotion of agriculture in this state, shall be distributed among the several counties of this state in the manner directed by the act entitled "An act to promote agriculture," passed May 5, 1841, and the act of May 7, 1844, amending the same: Provided

Money, how
distributed.

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that the moneys to be distributed to the counties of Allegany, Livingston and Wyoming, shall be varied from the apportionment in the above named acts so as to accord with the change of population, by chapter fifty-one of the laws of eighteen hundred and forty-six, which annexes a part of the county of Allegany, to the county of Wyoming, and by chapter one hundred and ninety-seven of the laws of eighteen hundred and forty-six, which annexes a part of the county of Allegany to the county of Livingston.

Provision
in case
money is
raised by
voluntary
subscription.

§ 2. When the New York State Agricultural Society, and any county agricultural society now formed, or which may be hereafter formed in this state, or the American Institute in the city of New York, shall raise by voluntary subscription any sum of money, the president and treasurer shall make and subscribe an affidavit of the facts of the formation of such society, and of their having raised a certain sum, specifying the amount, which affidavit shall be placed with the comptroller, who shall draw his warrant on the treasurer for a sum equal to the amount of such voluntary subscription, not exceeding the amount to which said county or state society would be entitled, according to the apportionment aforesaid.

Societies to
elect officers
annually
and award
premiums.

§ 3. The New York State Agricultural Society, and the several county agricultural societies, now formed, or which shall hereafter be formed, and the American Institute, shall annually elect such officers as they may deem proper, and it shall be the duty of such officers annually to regulate and award premiums on such articles, productions and improvements, as they may deem best calculated to promote the agricultural and household manufacturing interests of this state, having special reference to the nett profits which accrue or are likely to accrue from the mode of raising the crop or stock, or the fabrication of the article offered, with the intention that the reward shall be given to the most economical or profitable mode of competition: Provided always, that before any premium shall be delivered, the person claiming the same or to whom the same may be awarded, shall deliver in writing to the president of the society, an accurate description of the process in preparing the soil, including the quantity and quality of the manure applied in raising the crop, and the kind and quantity of food in feeding the animal, as may be; also the expense and product of the crop, or of increase in value of the animal, with a view of showing accurately the profit of cultivating the crop, or feeding or fattening the animal.

Account to
be rendered
to the
comptroller

§ 4. The president of the state society, and of the several county societies, and of the American Institute, who shall receive or expend any of the moneys appropriated by law, shall annually, in the month of December, transmit to the comptroller, a detailed account of the expenditures of all the moneys which shall come into their hands, stating to

whom and for what purpose paid, with the vouchers thereof; and the presidents of the several county societies, and of the American Institute, shall annually transmit in the month of December, to the executive committee of the New York State Agricultural Society, all such reports or returns as they are required to demand from applicants for premiums, together with an abstract of their proceedings during the year.

§ 5. The executive committee of the New York State Agricultural Society shall examine all reports and returns made by the presidents of county societies, and of the American Institute, and condense, arrange and report the same, together with a statement of their own proceedings, to the legislature, on or before the first day of March in each year.

Reports to be examined and condensed.

§ 6. The presidents of county societies, or delegates to be chosen by them annually for the purpose, shall be, ex officio, members of the New York State Agricultural Society.

Ex officio members.

CHAP. 339.

AN ACT to facilitate the forming of agricultural and horticultural societies.

PASSED June 8, 1853.

[This act is believed to be superseded though not expressly repealed by Laws of 1855, ch. 423.]

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any ten or more persons of full age, citizens of the United States, and a majority of whom shall be citizens of this state, who shall desire to form a county or town agricultural or horticultural society in any county, town, city or village in this state, may make, sign, and acknowledge, before any officer authorized to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the county in which the business of such society is to be conducted, a certificate in writing wherein shall be stated the name and title whereby such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and the names of such trustees, directors or managers thereof, for the first year of its existence.

Certificate to be made and filed.

§ 2. Upon filing a certificate, as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate, by the name stated in such certificate, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued; and they and their successors may have and use a common seal, and the same may alter and change at pleasure; and they and their successors,

Body corporate.

PART I.

by their corporate name, shall in law be capable of taking and receiving, purchasing and holding, real estate for the purposes of their incorporation, and for no other purpose, to an amount not exceeding the sum of twenty-five thousand dollars in value, if a county society, and ten thousand dollars in value, if a town, village or city society; and personal estate, for like purposes, to an amount not exceeding ten thousand dollars, if a county society, and three thousand dollars, if a town, village or city society, and to make by-laws for the management of its affairs, not inconsistent with the laws of this state or of the United States.

Stockholders.

§ 3. Any person who shall pay into the treasury of said society, annually, in such time and manner as the by-laws thereof shall direct, a sum of money not less than fifty cents, nor more than one dollar, shall be a stockholder therein, and entitled to all the privileges and immunities thereof.

Officers.

§ 4. The officers of said society shall consist of a president, and at least one vice-president, a secretary and treasurer, and at least one director or manager for each town in the county, if a county society, and not less than ten, if a town, village or city society. And they shall be elected annually by the stockholders of said society voting personally and by ballot, and said officers shall constitute a board for the management of the concerns of said society, a majority whereof shall be a quorum. And it shall be the duty of said officers to so manage the property and concerns of the said society as will best promote the interests of agriculture, horticulture, and the mechanic arts. And they shall hold annual fairs and exhibitions, and distribute premiums to the best and most meritorious exhibitors in these several departments.

Number of societies to be organized.

§ 5. There shall be but one county society in any one county in this state, nor shall there be more than one society in any town therein; but any two or three towns may join and organize a society for the same, but the organization of such society, by an association of towns, shall not be held to prohibit the organization of any town society or either one of such town societies.

Order to sell part of real estate.

§ 6. The said society may, in case the uses and convenience thereof so require, upon application to the supreme court of the district wherein said county at the time of such application shall be situated, obtain the requisite order and power to sell from time to time the whole or any part or parts of its real estate; the granting of such order to be in the discretion of the court, and such application to be made only when authorized by said society, at an annual meeting thereof, by a vote of not less than two-thirds of the legal members of said society present at such meeting, and notice of the intention to vote for such application having been published in three of the newspapers printed in said county once a week for three months next preceding such annual meeting.

OH. XVIII.
Liability of
officers.

§ 7. The officers of any society organized under the provisions of this act shall be jointly and severally liable for all debts due from said society, contracted while they are officers thereof, provided said debts are payable in one year from the time they were contracted, and provided a suit for the collection of the same shall be brought within one year after the debt shall become due and payable.

§ 8. The president, secretary and treasurer of said society shall annually, on or before the first day of February, make out and transmit to the secretary of the State Agricultural Society, at Albany, a statement of the transactions of said society for the year, giving a full detail of the receipts and expenditures thereof, with a list of premiums awarded, and to whom and for what purpose, and the same shall be subscribed and sworn to by said officers, before some person authorized to take the acknowledgment of deeds, as being a just and true statement within the spirit, true intent and meaning of this act.

Statement
to be made
to State
Agricultural
Society.

§ 9. Every society formed under this act shall possess the power and be subject to the provisions and restrictions contained in the third title of the eighteenth chapter of the Revised Statutes.

General
powers.

CHAP. 269.

AN ACT for the incorporation of associations for improving the breed of horses.

PASSED April 15, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any number of persons, not less than five, may associate and form an incorporation or company, for the purposes of raising, improving and breeding horses, upon filing in the office of the secretary of state a declaration, signed by all the incorporators, expressing their intention to form such company, together with a copy of the charter proposed to be adopted by them.

Companies,
how formed

§ 2. The charter so filed shall set forth the name of the company, the town and county wherever the same shall be located, the mode and manner in which the corporate powers granted by this act are to be exercised, the duration of the charter, which shall not exceed twenty-five years, the mode and manner of electing trustees or directors and filling vacancies, the period for the commencement and termination of its fiscal year, and the amount of capital to be employed in the transaction of its business; but no company shall be organized under this act with a capital of less than fifty thousand dollars, and in the counties of New York, Kings and Westchester the said capital shall not be less than one hundred

Charter,
what to
contain.

PART I.

thousand dollars, nor shall the declaration or charter of any company proposed so to be formed to be filed, as required by the first section of this act, except upon due and sufficient proof, to be made to the secretary of state, upon the oath of at least two of the corporators, that the whole amount of said capital has been subscribed in good faith, and at least twenty per cent thereof actually paid in cash.

As amended by Laws of 1864, ch. 85. Post, vol. 6, p. 236.

Copy to be
filed in
county
clerk's
office.

§ 3. A copy of said declaration and charter shall also be filed in the office of the clerk of the county wherein the said company shall be located, and a notice of the intention to form such company shall be published once in each week, for at least six weeks, in a newspaper printed in said county.

General
powers.

§ 4. Upon filing a declaration and charter, as aforesaid, the persons who have signed the declaration, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate, by the name stated in such charter, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued, and they and their successors may have and use a common seal, and the same alter and change at pleasure; and they and their successors, by their corporate name, shall in law be capable of taking and receiving, purchasing and holding real estate, for the purpose of their incorporation, to an amount not exceeding one hundred thousand dollars in value, and of mortgaging, selling and conveying, or otherwise disposing of the same, as the interest and objects of the company may require.

Powers.

§ 5. Any corporation formed under this act shall have power to raise, import, purchase, keep, breed and sell horses, and to do all other acts and things necessary in their judgment to carry out and effect the object of their incorporation.

See Laws of 1857, ch. 558. Post, p. 768.

By-laws.

§ 6. The corporators, or trustees, or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the laws of this state, as may be deemed necessary for the government of its officers and the conducting of its affairs, and the same to alter or amend at pleasure; they may also prescribe such rules and regulations for the sale and transfer of the stock of the company as they may deem just and expedient, and each stockholder shall be individually liable for the debts of said company contracted whilst such stockholder.

See Laws of 1860, ch. 523. Post, p. 771.

CHAP. 425.

AN ACT to facilitate the forming of Agricultural and Horticultural Societies.

PASSED April 13, 1855; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any ten or more persons of full age, citizens of the United States, and a majority of whom shall be citizens of this state, who shall desire to form a county or town agricultural society in any county, town, city or village, in this state, may make, sign and acknowledge, before any officer authorised to take the acknowledgment of deeds in this state, and file in the office of the secretary of state, and also in the office of the county in which the business of such society is to be conducted, a certificate in writing, wherein shall be stated the name and title whereby such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and the names of such trustees, directors or managers thereof for the first year of its existence.

Certificate
what to
contain.

§ 2. Upon filing the certificate as aforesaid, the persons who shall have signed and acknowledged such certificate, and their associates and successors, shall thereupon, and by virtue of this act, be a body politic and corporate by the name stated in such certificate, and by that name, they and their successors shall, and may have succession, and shall be persons in law, capable of suing and being sued, and they and their successors may have, and use a common seal, and may change and alter the same at pleasure, and they and their successors by their corporate name, shall, in law, be capable of taking and securing, purchasing and holding real estate for the purposes of their incorporation, and for no other purpose, to a sum not exceeding the sum of thirty thousand dollars in value and personal estate for like purposes, to an amount not exceeding ten thousand dollars, and to make by-laws for the management of its affairs, not inconsistent with the laws of this state, or of the United States, provided that no more property be exempt from taxation than is now allowed in the general law authorizing the incorporation of county and town agricultural societies.

Powers.

So amended by Laws of 1861, ch. 95.

§ 3. Any person who shall pay into the treasury of said society such sum as the by-laws of said society shall require, of not less than ten dollars, may be a life member of said society, with all the privileges of an annual member thereof.

Life mem-
bers.

§ 4. Any person who shall pay into the treasury of said society annually, a sum not less than fifty cents, as prescribed

Stock-
holders.

PART I.

by the by-laws of said society, shall be a stockholder, and entitled to all the privileges and immunities thereof. "Or any society may, by a majority vote, and by filing a certificate to that effect in the county clerk's office of the county where it is located, divide the amount of real and personal property authorized by section two of this act into shares of not less than ten dollars each, and sell the said shares at not less than the par value thereof, to raise money for the purposes contemplated in this act; and any person owning one or more of said shares of stock shall be a member and stockholder of said society; and may have one vote for each share so owned by him, at any stockholders' meeting of said society. Dividends may be made from the earnings of said society, and paid to the owners of said stock to the amount of ten per cent per annum, but no such dividend shall be made while the society is in debt."

As amended by Laws of 1860, ch. 238.

Officers.

§ 5. The officers of said society shall consist of a president and of at least one vice-president, a secretary and treasurer, and six directors. The president and vice-president, secretary and treasurer shall be elected annually, and the first year there shall be elected six directors; they shall be divided by lot into three classes; the first class to serve one year, the second class two years, and the third class three years, and at the expiration of each term there shall be elected two directors to serve three years, and all vacancies that may occur to be filled only for the term made vacant. The election of all officers to be by ballot of the stockholders or members. The board of managers shall consist of the president, the first vice-president, secretary, treasurer, and six directors, a majority of whom shall constitute a quorum for the transaction of business, and it shall be the duty of said officers to manage the property and concerns of the said society, as will best promote the interest of agriculture, horticulture, and the mechanic arts; and they shall hold annual fairs and exhibitions, and distribute premiums to the best and most meritorious exhibitors in these several departments.

County societies.

§ 6. There shall be but one county society in any one county in this state, nor shall there be more than one society in any town therein; but two, three or four towns may join and organize a society for the same, but the organization of such society by an association of towns shall not be held to prohibit the organization of any town society or either one of such town societies.

So amended by Laws of 1857, ch. 531.

Sale of real estate.

§ 7. The said society may, in case the uses and convenience thereof so require, upon application to the supreme court of the district wherein said county at the time of such application shall be situated, obtain the requisite order and power to sell, from time to time, the whole, or any part or parts of its

real estate; the granting of such order to be in the discretion of the court, and such application to be made only when authorized by said society, at an annual meeting thereof, by a vote of not less than two-thirds of the legal members of said society present at such meeting, and notice of the intention to vote for such application having been published in three of the newspapers printed in said county once a week for three months preceding such annual meeting.

§ 8. The officers of any society organized under the provisions of this act, shall be jointly and severally liable for all debts due from said society, contracted while they are officers thereof, provided a suit for the collection of the same be brought within one year after the debt shall become due and payable.

Liability of officers.

§ 9. The president, secretary and treasurer of said society shall annually, on or before the first day of February, make out and transmit to the secretary of the state agricultural society at Albany, a statement of the transactions of said society for the year, giving a full detail of the receipts and expenditures thereof, with a list of premiums awarded and to whom and for what purpose, and the same shall be subscribed and sworn to by said officers, before some person authorized to take the acknowledgment of deeds, as being a just and true statement within the spirit, true intent and meaning of this act.

Annual reports.

§ 10. Every society formed under this act shall possess the power and be subject to the provisions and restrictions contained in the third title of the eighteenth chapter of the Revised Statutes.

General powers.

§ 11. All societies formed under chapter three hundred and thirty-nine of Session Laws, passed June eighth, one thousand eight hundred and fifty-three, are hereby declared to be as valid as if formed under this act for the year eighteen hundred and fifty-five, and may reorganize under this law at any time.

Former societies ratified.

CHAP. 183.

AN ACT to exempt lands held by Agricultural Societies from taxation.

PASSED April 12, 1856; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. All lands now held, or which may hereafter be held, by any agricultural society in this state, and permanently used for show grounds by any such society, shall be exempt from taxation during the time so used.

Exemption.

CHAP. 558.

AN ACT to amend an act entitled "An act for the incorporation of associations for improving the breed of horses," passed April fifteenth, eighteen hundred and fifty-four.

PASSED April 15, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Horse racing.

§ 1. The fifth section of the act entitled "An act for the incorporation of associations for improving the breed of horses," passed April fifteenth, eighteen hundred and fifty-four, is hereby amended by adding thereto as follows: But nothing in this section contained shall be construed to allow the racing, running, trotting or pacing of horses, for any bet or wager, contrary to the provisions of article fifth, chapter twenty, title eight, part first of the Revised Statutes.

See Laws of 1860, ch. 523. Post, p. 771.

CHAP. 776.

AN ACT to provide for the incorporation of associations for improving the breed of domestic animals.

PASSED April 17, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Five or more persons may associate.

§ 1. Any number of persons not less than five may associate and form an incorporation or company for the purpose of importing, raising and improving and breeding domestic animals, upon filing in the office of the secretary of state a declaration, signed by all the incorporators, expressing their intention to form such company, together with a copy of the charter proposed to be adopted by them.

What the charter shall contain.

§ 2. The charter so filed shall set forth the name of the company, the town and county wherein the same shall be located, the mode and manner in which the corporate powers granted by this act are to be exercised, the duration of the charter, which shall not exceed twenty five years, the mode and manner of electing trustees or directors, and of filling vacancies, the period for the commencement and termination of the fiscal year and the amount of capital to be employed in the transaction of its business; but no company shall be organized under this act with a capital of less than fifteen thousand dollars, nor shall the declaration or charter of any company proposed so to be formed, be filed as required by the first section of this act, except upon due and sufficient

proof, to be made to the secretary of state, upon the oath of at least two of the incorporators, that the whole amount of said capital has been subscribed in good faith, and at least twenty-five per cent thereof actually paid in cash.

§ 3. A copy of said declaration and charter shall be filed in the office of the clerk of the county wherein the said company shall be located, and a notice of the intention to form such company shall be published once in each week for at least six weeks in a newspaper published in said county.

Copy filed
and notice
given.

§ 4. Upon filing a declaration and charter as aforesaid, the persons who shall have signed the declaration, and their associates and successors, shall thereupon, by virtue of this act, be a body politic and corporate, by the name stated in such charter, and by that name they and their successors shall and may have succession, and shall be persons in law capable of suing and being sued, and they and their successors may have and use a common seal, and the same alter and change at pleasure; and they and their successors, by their corporate name, shall in law be capable of taking and receiving, purchasing and holding real estate for the purpose of their corporation, to an amount not exceeding ten thousand dollars in value, and of mortgaging, selling and conveying, or otherwise disposing of the same, as the interest and objects of the company may require.

Powers and
privileges.

§ 5. Any corporation formed under this act shall have power to raise, import, purchase, keep, breed and sell, all kinds of domestic animals, and do all other acts and things, not inconsistent with the laws of this state, necessary in their judgment to carry out and effect the object of their incorporation.

Powers of
associations.

§ 6. The corporators or trustees, or directors, as the case may be, of any company organized under this act, shall have power to make such by-laws, not inconsistent with the laws of this state, as may be deemed necessary for the government of its officers and conducting of its affairs, and the same to alter and amend at pleasure; they may also prescribe such rules and regulations for the sale and transfer of the stock of the company, as they may deem just and expedient.

By-laws.

§ 7. All the stockholders under this act shall be severally and individually liable to an amount equal to the amount of the capital stock held by them respectively, to the creditors of said corporation, for all debts contracted by the directors or agents thereof for its use, until the whole amount of its capital stock shall be paid in.

Liabilities
of stock-
holders.

§ 8. The corporation hereby created shall possess the powers and be subject to the restrictions contained in the third title of the eighteenth chapter of the Revised Statutes, so far as the same are applicable and have not been repealed.

Genera.
powers.

CHAP. 36.

AN ACT to enable agricultural and horticultural societies to extend a more perfect protection to their property and the property of exhibitors at fairs, and to allow the board of managers to appoint a police for that purpose.

PASSED March 7, 1859; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Managers
may ap-
point po-
licemen.

Their
powers.

What mis-
conduct
punishable.

County and
town not
liable to po-
lice.

§ 1. The board of managers or executive committee of any agricultural or horticultural society of this state, is hereby authorized to appoint as many citizens of this state policemen, as shall be necessary for their exhibitions, whose duty it shall be to preserve order within and around the grounds of said society, to protect the property within said grounds, to eject all persons who shall be improperly within the grounds of said society, or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fee or observe the rules prescribed by the society. Said policemen shall have the same power, during the time said exhibition shall continue, that a constable may have by law, in serving criminal process and making arrests, and in addition may arrest any person for the commission of any offense mentioned in section two.

§ 2. Any person who shall wilfully injure or destroy the property of exhibitors, visitors or lessees on the fair grounds, or shall hinder or obstruct the officers and police in the performance of their duties, or shall wrongfully or maliciously gain admission to the fair grounds contrary to the rules of said society, or without paying the established fees during any fair of such society, shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to a fine of not less than one nor more than twenty-five dollars, or imprisonment not exceeding thirty days, at the discretion of the court before whom the offender may be tried; and all fines imposed and collected under this section, shall be immediately paid into the treasury of such agricultural or horticultural society, for its use and benefit.

§ 3. No town or county shall be liable to pay said policemen for services rendered under this act.

CHAP. 523.

AN ACT to amend the sixth section of an act entitled "An act for the incorporation of associations for improving the breed of horses," passed April fifteenth, eighteen hundred and fifty-four, and also to amend the first section of an act passed April fifteenth, eighteen hundred and fifty-seven, so far as the said acts may be applicable to the several counties on Long Island.

PASSED April 27, 1860.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The sixth section of the "Act for the incorporation of associations for improving the breed of horses," passed April fifteenth, eighteen hundred and fifty-four, is hereby amended by adding thereto as follows: "Until the whole amount of capital stock subscribed shall have been paid in, in cash, and afterwards said liability shall be twice the amount of the stock held in their respective names." *Ante, p. 764.*

Liability of stockholders.

§ 2. The provisions of this act shall be applicable only to the several counties on Long Island, and shall not be construed to apply to any other county or counties in this state.

Limited to Long Island.

§ 3. The first section of the act passed April fifteenth, eighteen hundred and fifty-seven, to amend the fifth section of an act entitled "An act for the incorporation of associations for improving the breed of horses," passed April fifteenth, eighteen hundred and fifty-four, is hereby amended by adding thereto as follows: "Provided, always, that nothing herein contained shall prevent any association regularly formed under the act passed April fifteenth, eighteen hundred and fifty-four, from offering premiums, at any of the regular meetings of said association, and a competition therefor."

Act of 1854 amended.

Ante, p. 768

CHAP. 284.

AN ACT in relation to Agricultural and Horticultural Associations.

PASSED April 17, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. In addition to the powers now vested by statute in the board of managers of any agricultural or horticultural association, the officers of such association shall have power to regulate and prevent all kinds of theatrical, circus or mounte-

Managers may prohibit trade and performances.

PART I.

bank exhibitions and shows, as well as all huckstering or traffic in fruits, goods, wares and merchandise of whatever description, for gain, on the fair days, and within a distance of two hundred yards of the fair grounds of said association, if in the opinion of said officers, the same shall obstruct or in any way interfere with the free and uninterrupted use of the highway around and approaching such fair grounds; and the police employed by any such association shall possess the same power for a space of two hundred yards from said grounds, as is now vested in them by law within said grounds and be under the same control of the officers of the association within that space; and the same fines and penalties shall be incurred for any violation of the rules and regulations of said officers of any such association within two hundred yards of the fair grounds, as is now by law incurred for any violation of the rules and regulations within the grounds of any such association.

CHAP. 293.

AN ACT to provide for the collection of agricultural statistics in the several counties of this State.

PASSED April 17, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Duties of
agricultural
and horti-
cultural so-
cieties.

§ 1. It shall be the duty of all county agricultural or horticultural societies, or, in the absence of such county societies, town societies, that receive an annual appropriation of money and books, or either, from the state treasury, to procure the collection of the statistics of agricultural and horticultural products and improvements each year in their respective counties, by procuring proper answers to such questions as shall be contained in blanks to be provided for that purpose.

Duties of
board of
managers.

§ 2. It shall be the duty of the board of managers, or other proper officers of such county agricultural or horticultural societies, or, in the absence of such county societies, the presidents of the several town societies which receive money from the state, to select and appoint some suitable person in each school district and each joint district in said county, whose duty it shall be to procure the proper answers from all persons residing in the said school district or joint district to the questions contained in the blanks to be furnished for that purpose, and the said board of managers or president shall furnish the person so appointed with the proper blanks on or before the first of January of each and every year, with such instructions as may be necessary to his correct understanding of the duties to be performed.

Answers to
be obtained

§ 3. The persons thus appointed in the several school districts and joint districts shall proceed at once to procure the

proper answers to the several questions contained in said blanks, by calling on the persons of whom the information is to be obtained, or in such other manner as in the judgment of said officers may best secure the correct answers; which answers he shall enter upon said blanks, under their appropriate heads, and opposite the name of the respective persons from whom they are obtained. When the answers shall have been obtained from all the residents of said districts, and properly entered upon said blanks, the said blanks shall be returned to the president of said agricultural or horticultural society, who shall cause the same to be added up, and the aggregate result for each school district or joint district entered in a column on similar blanks, opposite the number of the respective district, in such manner as to show the result in each town by school districts, which blanks containing such aggregate results shall be forwarded to the Secretary of the New York State agricultural society, on or before the first of February in each year.

Returns
made to
president of
societies.

Results
sent to
state
society.

§ 4. The several officers appointed in school districts, as provided in section two of this act, and who shall perform the duties of said office, shall be entitled to receive and shall be furnished by the president of the agricultural or horticultural society of his respective county one copy of the transactions of the New York State agricultural society, and one copy of the transactions of the American institute, published for the year that the statistics thus collected represents. The county agricultural or horticultural society, or, in the absence of such county societies, the town societies, whose officers shall faithfully perform the duties specified in the several sections of this act, shall be entitled to receive from the Comptroller of this State such amounts of money annually as they have heretofore been authorized to receive under the provisions contained in the act entitled "An act for the encouragement of agriculture," passed May fifth, one thousand eight hundred and forty-one, an act to amend an act entitled "An act to promote agriculture," passed May fifth, one thousand eight hundred and forty-one, and the acts amendatory thereof, passed April sixteenth, one thousand eight hundred and sixty-one, without procuring a like sum to be raised by subscription or otherwise, as provided by said act.

Certain
school dis-
trict officers
to receive
documents.

Monies to
be paid to
county so-
cieties.

§ 5. It shall be the duty of the Comptroller to provide blanks by the first day of December in each year, of such form and containing such questions as shall be approved by the executive committee of the New York State agricultural society, and furnish the same to the presidents of said county or town agricultural or horticultural societies, with such instructions as shall enable said officers to discharge the duties required of them as contemplated by this act.

Duties of
comptrol-
ler.

§ 6. If there should be any counties in this state in which there is no such agricultural or horticultural society, or town societies, receiving appropriations from the state treasury,

Duty of
executive
committee
of state so-
ciety.

PART I.

then it shall be the duty of the executive committee of the New York State agricultural society to appoint a suitable person in each of said counties, whose duty it shall be to appoint suitable persons in the respective school districts of his county, as provided in section two of this act; and the persons so appointed shall proceed in all respects as if they had been appointed by the board of managers or other officers of a county agricultural or horticultural society, as provided by section two of this act.

Pay of persons appointed.

§ 7. Such persons as shall be appointed by the executive committee of the New York State agricultural society, shall be entitled to receive a suitable compensation, to be paid out of any moneys that would properly belong to a county agricultural or horticultural society, if such society existed in said county, and the Treasurer of the State shall pay such sum, on the warrant of the Comptroller, to be given on the certificate of the Secretary of the State agricultural society, that such service has been duly and faithfully performed, but such compensation shall not in any case exceed in amount the sum that such county agricultural or horticultural society would be entitled to receive.

CHAP. 149.

AN ACT to provide for the incorporation of skating parks and sporting grounds.

PASSED April 8, 1861.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Seven persons may form corporation.

§ 1. Any number of persons, not less than seven, may associate and form an incorporation for the purpose of constructing parks, to be used for skating and other lawful sports upon complying with the following requirements:

Articles of association.

1. They shall severally subscribe articles of association, in which shall be set forth the name of the corporation; the number of years the same is to continue, which shall not exceed fifty years; the amount of the capital stock of the corporation; which shall be divided into shares of twenty-five dollars each; the number of directors, and their names, who shall manage the concerns of the corporation for the first year and until others are elected; the location of such pond, and the general plan thereof.

Capital stock.

2. Each subscriber to such articles of association shall subscribe thereto his name and place of residence, and the number of shares of stock taken by him in such corporation.

Certificate to be filed.

3. Whenever one-fourth part of the capital stock specified in the articles of association, shall have been subscribed, and on complying with the provisions of the next section, such

articles may be filed in the office of the state engineer and surveyor, and clerk of the county in which the pond is built; and, thereupon, the persons who have subscribed the articles of association as aforesaid, and such other persons as shall become stockholders in such company, and their successors, shall be a body corporate by the name specified in such articles of association, and shall possess the powers and privileges, and be subject to the provisions of title three and four of chapter eighteen of the first part of the Revised Statutes, so far as those provisions are consistent with the provisions of this act. Every such corporation, by its corporate name, shall, in law, be capable of taking, receiving, purchasing, leasing and holding real estate, for the purposes of their incorporation, and for no other purpose, to an amount not exceeding ten thousand dollars in value, and personal estate, for like purposes, to an amount not exceeding the sum of five thousand dollars in value.

25 B., 263.

§ 2. All the stockholders of every company, incorporated under this act, shall be severally and individually liable to an amount equal to the amount of the capital stock held by them respectively, to the creditors of such company, for all the debts contracted by the directors or agents of such company for its use, until the whole amount of capital stock, fixed and limited by such company, is paid in, and a certificate thereof filed in the office aforesaid; and the whole capital stock shall be paid in, one-half thereof within six months, and the other half thereof within one year from the time of the incorporation of said company; and if not so paid in, such corporation shall be dissolved. If the directors of any corporation formed under this act shall contract debts for the company exceeding in the aggregate, the amount of the capital stock, they shall be personally liable for all the debts of the corporation.

Stockholders to be individually liable.

§ 3. Such articles of association shall not be filed as aforesaid, until one-twentieth part of the amount of stock fixed as aforesaid shall have been actually paid in to the directors in cash, nor until there shall be indorsed thereon or annexed thereto, an affidavit made by at least three directors named in such articles of association, that the amount of stock required by the first section of this act to be subscribed, has been subscribed, and that one-twentieth part of the amount has been actually paid in as aforesaid.

When articles may be filed.

§ 4. A copy of such articles of association, filed in pursuance of this act, with a copy of such affidavit indorsed thereon or annexed thereto, and certified to be a copy by the county clerk with whom the original is filed, shall, in all courts and places, be presumptive evidence of the facts therein contained.

Certified copy to be evidence.

§ 5. The business and property of every such corporation shall be managed and conducted by a board of directors, con-

Board of directors.

PART I.

sisting of not less than five nor more than nine, who shall be chosen, except those for the first year, at such place within the county where the property of the company is located as shall be provided by the by-laws thereof. The directors shall give notice of every such election, previous to the holding thereof, by publishing the same, once in each week, for four successive weeks, in a public newspaper published in the county where such pond is located. All elections of directors shall be by ballot, and by a majority of the votes given thereat, and every stockholder attending in person or by proxy shall be entitled to one vote for each share of stock which he shall have owned absolutely, or as executor, administrator or guardian, for thirty days previous to such election. No person shall be a director unless he shall be a stockholder, owning at least four shares of stock, absolutely in his own right, or as executor, administrator or guardian, and entitled to vote at the election at which he shall be chosen, nor unless he shall be a citizen of this state, and a majority of the directors shall, at the time of their election, be residents of the county where the real estate of such corporation shall be located. Whenever any vacancy shall happen in the board of directors, it shall be supplied, until the next election, by the remaining directors. The directors of every such company shall be elected in the same month in each and every year, and such election, after the first, shall be held on the first Tuesday of such month, and the directors chosen at any election shall hold their offices to and including the Tuesday next succeeding that at which they were chosen. If an election of directors shall not be held on the day prescribed by this act for holding the same, the directors in office on that day shall hold their offices until their successors shall be elected, but after the expiration of their regular term of office, as prescribed by this section, they shall be incapable of doing any act as such directors, except such as may be necessary to give effect to an election of directors.

Vacancy.

Directors may require payment.

§ 6. The directors of any incorporation formed under this act may require payment from the stockholders of the sums subscribed to the capital stock, at such times, and in such proportions, and on such conditions as they shall see fit, under the penalty of the forfeiture of their stock, and all previous payments thereon; and they shall give notice of the payments thus required, and of the place and time when and where the same are to be made, at least thirty days previous to the time fixed for the payment of the same, for the time and in the manner hereinbefore prescribed for giving notice of the election of directors, and by sending such notice to such stockholder by mail, directed to him at his usual place of residence.

Shares personal property.

§ 7. The shares of any corporation formed under this act shall be deemed personal property, and may be transferred in such manner as shall be prescribed by the by-laws of such

corporation; and the directors of every such corporation may, at any time, with the consent of a majority in amount of the stockholders in such corporation, provide for such increase of the capital stock thereof as may be necessary to complete or reconstruct or improve such pond and sporting ground; and the certificate of the amount of any such increase within thirty days thereafter shall be filed in the office of the state engineer and surveyor, and the clerk of the county or counties in which such pond is located, which certificate shall be authenticated by the signatures and oaths of a majority of said directors.

§ 8. Every company incorporated under this act shall cease to be a body corporate:

Body corporate to cease.

1. If within two years from the filing of their articles of association they shall not have commenced the construction of their pond and sporting ground, and actually expended thereon at least ten per cent of the capital stock of such company; or

2. If within five years from the filing of such articles of association, such pond and sporting ground shall not be completed according to the provisions of this act; or,

3. If the said pond and sporting ground shall for the space of three years cease to be used and maintained for the purposes for which it was built.

§ 9. It shall be the duty of the president and secretary of every corporation formed under this act, to report annually to the state engineer and surveyor, and the county clerk in whose office the certificate of incorporation is filed, under oath, the cost of their ground, the amount of all money expended, the amount received during the year for subscriptions and from all other sources, stating each separately, the amount of dividend made, and the amount of indebtedness of such company, specifying the object for which the indebtedness accrued, and such other particulars in respect to the business affairs of such corporation as the said state engineer and surveyor, or either branch of the legislature may require to be so reported.

Annual report.

§ 10. Any skating pond and sporting ground in process of construction, or completed by private subscriptions at the time of the passage of this act, may be organized into a corporation pursuant to the provisions of this act, with the same power and privileges as if such skating pond and sporting ground had not been so commenced.

Any private park may be incorporated under this act.

§ 11. All companies formed under this act shall at all times be subject to visitation and examination by an officer or agent, in pursuance of law, or by the legislature, or by a committee appointed by either house thereof; and the courts of this state shall have the same jurisdiction over such corporations and their officers as over those created by special acts.

Subject to visitation and examination.

§ 12. Every person who shall willfully break, throw down, or injure any gate, fence, or embankment, or erection of any kind upon the ground of any corporation organized pursuant

Injury to property.

PART I.

to this act, or forcibly or fraudulently pass such a gate, or over such fence, without having first paid the charge demanded by such corporation for entry into such grounds shall, for each offence, forfeit to the corporation injured the sum of twenty-five dollars, in addition to the damages resulting from such wrongful act.

CHAP. 122.

AN ACT for the incorporation of building, mutual loan and accumulating fund associations.

PASSED April 10, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

Companies
how form-
ed.

§ 1. Any number of persons, not less than nine, may associate and form an incorporated company for the purpose of accumulating a fund for the purchase of real estate, the erection of buildings, or the making of other improvements on lands, or to pay off incumbrances thereon, or to aid its members in acquiring real estate, making improvements thereon, and removing incumbrances therefrom; and for the further purpose of accumulating a fund to be returned to its members, who do not obtain advances as above mentioned, when the funds of such association shall amount to a certain sum per share, to be specified in the articles of association.

Articles of
association

§ 2. Such persons shall severally subscribe articles of association, in which shall be set forth the name of the corporation, the time of its regular meetings, and how special meetings may be called, and what shall constitute a quorum to transact business at meetings; the qualification of members and how constituted; what officers, trustees and attorney there shall be, and how and when chosen, and their duties, and how removed or suspended from office; the entrance fee of new members and new shares, the monthly or weekly dues per share, the redemption fee on shares on which advances shall be made, and fees to be paid on the transfer of shares; the fines and penalties for non-payment of dues or fees, or other violation of the articles of association; the manner of redemption of shares by advances made thereon, the mortgaged security to be taken on such advances, and how the same may be redeemed or changed; the manner of the transfer or withdrawal of shares; the manner of investing funds not required for advances on shares; the qualifications of voters at the meetings, and the mode of voting; the ultimate amount to be paid to the owners of unredeemed shares; the manner of altering or amending the articles of association, and such other provisions as shall be necessary for the convenient and effective transaction of the business thereof; provided, that

the same shall not in any respect contravene the constitution or laws of this state.

§ 3. A true copy of such articles, signed by the officers of the association, together with a statement showing when the association was organized, and the place of the transaction of its business, and the names of the officers and trustees at the time of the making of such statement, which shall be verified by oath or affirmation before any officer authorized to take affidavits, to be used in courts of justice, shall be filed in the office of the clerk of the county in which such association shall transact its business; and thereupon the persons who have subscribed the articles of association as aforesaid, and such other persons as shall become members of such association, and their successors, shall be a body corporate by the name specified in such articles of association, and shall possess the powers and privileges, and be subject to the provisions of title third of chapter eighteen of the first part of the Revised Statutes, so far as those provisions are consistent with the provisions of this act, and they shall by their corporate name, be capable in law of purchasing, holding and conveying any real and personal estate whatever, which may be necessary to enable said company to carry on their operation named in such certificate.

Copy of articles when to be filed.

Powers and limitations.

§ 4. It shall be lawful for the trustees to call in and demand from the stockholders, respectively, all such sums of money by them subscribed, at such times and in such payments or installments as the articles of association shall prescribe, under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon, if payment shall not be made by the stockholder within sixty days after a personal demand or notice requiring such payment shall have been published for six successive weeks in the newspaper nearest the place where the business of the company shall be carried on as aforesaid.

Calls upon stock.

§ 5. All corporations formed under this act shall have power to borrow money for temporary purposes not inconsistent with the objects of their organization; but no loan for such purposes shall have a longer duration than two years, nor shall such indebtedness exceed at any one time one-fourth of the aggregate amount of the shares and parts of shares, and the income thereof, actually paid in and received.

Borrowing money.

§ 6. Parents and guardians may take and hold shares in such association in behalf and for the use of their minor children or wards, provided the cost of such shares be defrayed from the personal earnings of such minor children or wards, or by gifts from persons other than their male parents; married women may take and hold shares in such associations, provided the cost of such shares be defrayed from their personal earnings, the personal earnings of their children voluntarily bestowed for this purpose, or from property bequeathed or given to them by persons other than their husbands.

Stock for minors, &c.

PART I

a newspaper printed in the town or city in which or nearest to the place where the operations of the said company shall be carried on, and the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy. All elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in the said company, and the persons receiving the greatest number of votes shall be trustees; and when any vacancy shall happen among the trustees, by death, resignation or otherwise, it shall be filled for the remainder of the year in such manner as may be provided for by the by-laws of the said company.

In case of failure to elect trustees, a new election may be held.

§ 4. In case it shall happen at any time that an election of trustees shall not be made on the day designated by the by-laws of said company, when it ought to have been made, the company for that reason shall not be dissolved, but it shall be lawful on any other day to hold an election for trustees, in such manner as shall be provided for by the said by-laws; and all acts of trustees shall be valid and binding, as against such company, until their successors shall be elected.

Officers of company.

§ 5. There shall be a president of the company, who shall be designated from the number of the trustees, and also such subordinate officers as the company by its by-laws may designate, who may be elected or appointed, and required to give such security for the faithful performance of the duties of their office as the company by its by-laws may require.

Payment of stock.

§ 6. It shall be lawful for the trustees to call in and demand, from the stockholders respectively, all such sums of money by them subscribed, at such times and in such payments or instalments as the trustees shall deem proper, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the stockholder within sixty days after a personal demand or notice requiring such payment shall have been published, for six successive weeks, in a newspaper printed in the city or town in which or nearest to the place where the business of the company shall be carried on as aforesaid.

By-laws.

§ 7. The trustees of such company shall have power to make such prudential by-laws as they shall deem proper, for the management and disposition of the stock and business affairs of such company, not inconsistent with the laws of this state, and prescribing the duties of officers, artificers and servants that may be employed, for the appointment of all officers, and for carrying on all kinds of business within the objects and purposes of such company.

Stock.

§ 8. The stock of such company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the by-laws of the company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in, or shall have been declared forfeited for the non-payment of calls thereon. And it shall not be lawful

for such company to use any of its funds in the purchase of any stock in any other corporation, or to hold the same, except as collateral security to a prior indebtedness.

CH. XVIII.
Use of
funds.

§ 9. The copy of any certificate of incorporation filed in pursuance of this act, certified by the county clerk under his official seal to be a true copy, and of the whole of such certificate, shall be received in all courts and places as presumptive legal evidence of the facts therein stated.

Certificate
of incorpora-
tion to be
evidence.

§ 10. All the stockholders of every company incorporated under this act shall be jointly, severally and individually liable, to the creditors of the company in which they are stockholders, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by such company, until the whole amount of capital stock fixed and limited by such company shall have been paid in, and a certificate thereof shall have been made and recorded as prescribed in the following section; and the capital stock so fixed and limited shall all be paid in, at least one-half thereof within one year and the remainder thereof within two years, from the incorporation of said company, or such corporation shall be dissolved.

Stockhold-
ers liable.

§ 11. The president and a majority of the trustees, within thirty days after the payment of the last installment of the capital stock so fixed and limited by the company, shall make a certificate stating the amount of the capital so fixed and paid in; which certificate shall be signed and sworn to by the president and a majority of the trustees, and they shall, within the said thirty days, record the same in the office of the county clerk of the county wherein the business of the company is carried on.

Certificate
of capital
paid in.

§ 12. Every such company shall annually, within twenty days from the first day of January, make a report, which shall be published in such newspaper published in the town, city or village, or if there be no newspaper published in said town, city or village, then in some newspaper published nearest the place where the business of said company is carried on, which shall state the amount of capital, and of the proportion actually paid in, and the amount of its existing debt; which report shall be signed by the president and a majority of the trustees, and be verified by the oath of the president or secretary of said company, and filed in the office of the clerk of the county where the business of the company shall be carried on; and if any of said company shall fail so to do, all the trustees of the company shall be jointly and severally liable for all the debt of the company then existing, and for all that shall be contracted before such report shall be made.

Annual re-
port.

§ 13. If the trustees of any such company shall declare and pay any dividend when the company is insolvent, or any dividend, the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally liable for all the debts of the

Payment of
dividend.

PART I.

company then existing, and for all that shall be thereafter contracted while they shall respectively continue in office; provided that if any of the trustees shall object to the declaring of such dividend, or to the payment of the same, and shall at any time before the time fixed for the payment thereof file a certificate of their objection, in writing, with the clerk of the company and with the clerk of the county, they shall be exempt from the said liability.

Loans to members.

§ 14. Nothing but money shall be considered as payment of any part of the capital stock, and no loan of money shall be made by any such company to any stockholder therein; and if any such loan shall be made to a stockholder, the officers who shall make it, or who shall assent thereto, shall be jointly and severally liable, to the extent of such loan and interest, for all the debts of the company contracted before the repayment of the sum so loaned.

False reports.

§ 15. If any certificate or report made or public notice given by the officers of any such company, in pursuance of the provisions of this act, shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts of the company contracted while they are stockholders or officers thereof.

Stock held by executor, &c.

§ 16. No person holding stock in any such company, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly and the estate and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner and to the same extent as the testator or intestate, or the ward, or person interested in such trust fund, would have been if he had been living and competent to act and hold the same stock in his own name.

Persons entitled to vote as stockholders.

§ 17. Every such executor, administrator, guardian or trustee shall represent the share of stock in his hands at all meetings of the company, and may vote accordingly as a stockholder; and every person who shall pledge his stock as aforesaid may, nevertheless, represent the same at all such meetings, and may vote accordingly as a stockholder.

Stockholders liable.

§ 18. The stockholders of any company, organized under the provisions of this act, shall be jointly, severally and individually liable for all debts that may be due and owing to all their laborers, servants and apprentices, for services performed for such corporation.

Repealing clause.

§ 19. The Legislature may at any time alter, amend or repeal this act, or may annul or repeal any incorporation formed or created under this act; but such amendment or repeal shall not, nor shall the dissolution of any such company, take away or impair any remedy given against any such

corporation, its stockholders or officers, for any liability which shall have been previously incurred.

§ 20. Any company which may be formed under this act may increase or diminish its capital stock, by complying with the provisions of this act, to any amount not less than ten thousand dollars, which may be deemed sufficient and proper for the purposes of the corporation; but before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital.

Capital may be increased or diminished.

§ 21. Whenever any company shall desire to call a meeting of the stockholders, for the purpose of increasing or diminishing the amount of its capital stock, it shall be the duty of the trustees to publish a notice, signed by at least a majority of them, in a newspaper in the county, if any shall be published therein, at least three successive weeks, and to deposit a written or printed copy thereof in the post-office, post-paid, addressed to each stockholder at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting, specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be proposed to increase or diminish the capital; and a vote of at least two-thirds of all the shares of stock shall be necessary to an increase or diminution of the amount of its capital stock.

Call for a meeting to increase or diminish capital.

§ 22. If at any time and place, specified in the notice provided for in the preceding section of this act, stockholders shall appear in person or by proxy, in numbers representing not less than two-thirds of all the shares of stock of the corporation, they shall organize by choosing one of the trustees chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present, in person or by proxy; and if on canvassing the votes it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, a certificate of the proceeding, showing a compliance with the provisions of this act, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed or verified by the affidavit of the chairman, and be countersigned by the secretary; and such certificate shall be acknowledged by the chairman, and filed as required by the first section of this act, and when so filed the capital stock of such corporation shall be increased or diminished to the amount specified in such certificate.

Meeting to increase or diminish stock.

§ 23. If the indebtedness of any such company shall at any time exceed the amount of its capital stock, the trustees of such company, assenting thereto, shall be personally and

Indebtedness of company.

PART I.

individually liable to such excess to the creditors of such company.

Stockholders not liable for certain debts.

§ 24. No stockholder shall be personally liable for the payment of any debt, contracted by any company formed under this act, which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against such company within one year after the debt shall become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in any such company, for any debt so contracted, until an execution against the company shall have been returned unsatisfied in whole or in part, nor unless the same shall be commenced within three months from the return of such execution.

List of names of stockholders to be kept.

§ 25. It shall be the duty of the trustees of every such corporation or company to cause a book to be kept, by the treasurer or clerk thereof, containing the names of all persons, alphabetically arranged, who are, or shall within six years, have been stockholders of such company, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares, and the amount of stock actually paid in; which book shall, during the usual business hours of the day, on every day except Sunday and the fourth day of July, the twenty-fifth day of December and the first day of January, be open for the inspection of stockholders and creditors of the company, and their personal representatives, at the office or principal place of business of such company, in the county where its business operations shall be located, and any and every such stockholder, creditor or representative shall have a right to make extracts from such book; and no transfer of stock shall be valid for any purpose whatever, except to render the person to whom it shall be transferred liable for the debts of the company according to the provisions of this act, until it shall have been entered therein as required by this section, by an entry showing to and from whom transferred. Such book shall be presumptive evidence, of the facts therein stated, in favor of the plaintiff, in any suit or proceeding against such company or against any one or more stockholders. Every officer or agent of any such company, who shall neglect to make any proper entry in such book, or shall refuse or neglect to exhibit the same or allow the same to be inspected and extracts to be taken therefrom, as provided by this section, shall be deemed guilty of a misdemeanor, and the company shall forfeit and pay to the party injured a penalty of fifty dollars for every such neglect or refusal, and all the damages resulting therefrom; and every company that shall neglect to keep such book open for inspection, as aforesaid, shall forfeit to the people the sum of fifty dollars for every day it shall so neglect, to be sued for and recovered in the name of the people by the district attorney

Book to be evidence.

Forfeit for neglect to keep book.

of the county in which the business of such corporation shall be located; and when so recovered, the amount shall be paid into the treasury of such county for the use thereof.

§ 26. Every corporation created under this act shall possess the general powers and privileges, and be subject to the liabilities and restrictions, contained in title third, of chapter eighteen, of the first part of the Revised Statutes.

General powers.

CHAP. 426.

AN ACT to provide for the incorporation of villages.

PASSED December 7, 1847; "three-fifths being present."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any part of any town or towns, not included within any incorporated village, and containing a resident population of not less than three hundred persons, and if it shall include within its boundaries a territory of more than one square mile in extent, containing a resident population of at the rate of not less than three hundred persons to every square mile of territory included within such boundaries, may be incorporated as a village under the provisions of this act.

Requisite population and territory.

§ 2. The persons intending to make application for the incorporation of such village as hereinafter provided, shall cause an accurate survey and map of the territory intended to be embraced within the limits of such village, such survey to be made by a practical surveyor, which shall show the courses and distances of the boundaries thereof and the quantity of land contained therein; the accuracy of which survey and map shall be verified by the affidavit of such surveyor, written thereon or annexed thereto.

Survey and map to be made.

§ 3. Such persons shall also cause an accurate census to be taken of the resident population of such territory as it may be on some day not more than ten weeks previous to the time of presenting such application to the court as hereinafter provided; which census shall exhibit the name of every head of a family residing within such territory on such day and the number of persons then belonging to every such family; and it shall be verified by the affidavit of the person taking the same, written thereon or annexed thereto.

Census to be taken.

§ 4. Such survey, map and census when completed and verified as aforesaid, shall be left at the residence or place of business within such territory, of some person residing therein, and shall be subject to examination, at all reasonable hours, by every person interested in such application, for the period of five weeks from the posting or first publication of the notice of such application as hereinafter provided.

Survey and census where to be left.

§ 5. The persons intending to make such application shall give notice that they will apply, on some day therein speci-

Notice of application for incorpo-

PART I.
ration to be
given.

fied, to the court of sessions of the county in which such territory shall lie, or if it shall lie in more than one county, to such court in one of such counties, to be named in such notice, for an order incorporating such territory as a village, by a name to be therein specified. Such notice shall describe the boundaries of such territory by courses and distances and by specifying the town or towns, in which it shall lie; and it shall state where such survey, map and census have been left, and may be examined as aforesaid.

Notice to
be publish-
ed.

§ 6. If there be a newspaper printed within such territory, such notice shall be printed therein once in each week, for six successive weeks previous to the time specified therein for making such application; and if there shall be no such paper, such notice shall be posted in at least ten of the most public places in such territory, at least six weeks before the time so specified therein.

Application
to be by
petition.

§ 7. Such application shall be by petition, subscribed by the applicants who shall be residents of such territory, and setting forth the boundaries thereof with their courses and distances, the quantity of land therein embraced according to such survey, and the resident population therein contained according to such census; such survey and map and the affidavit verifying the same, such census and the affidavit verifying the same, an affidavit that they were left and have been kept subject to examination as aforesaid, and a copy of such notice with an affidavit thereon, written or thereto annexed, or posting or publishing the same as aforesaid, shall be annexed to such petition, otherwise it shall not be acted upon by the court; and it shall be presented at the time specified in such notice for presenting the same, or as soon thereafter as the applicants can be conveniently heard in respect thereto.

Resurvey
may be
ordered.

§ 8. When such petition shall be presented as aforesaid, the court shall hear all the parties interested therein who shall appear and ask to be heard; it may adjourn the hearing from time to time; it may direct a resurvey to be made of such territory, or that such census shall again be taken, or both, it may appoint a person or persons to make such resurvey, and to take such census again; and it may refer any question that may arise in respect to such application, and in respect to the propriety and merits thereof, to three disinterested commissioners, to be appointed by such court to examine and report thereon, who, after taking the constitutional oath of office, shall examine and report in respect to such matters as the court by its order shall direct.

So amended by Laws of 1850, ch. 176.

Court may
establish
boundaries
of the vil-
lage.

§ 9. If such court, after hearing the parties, shall be satisfied that such survey, or resurvey, and that the census first or subsequently taken, are correct, that all the requirements of this act, in respect to the application, have been complied with, and that said territory contained at the time in respect

to which such census was first or subsequently taken, a population as great in proportion to the quantity of land embraced within the bounds thereof, as that specified in the first section of this act, and that the lands embraced in such territory ought justly to be included in the corporation sought to be created, and that the interests of the inhabitants of such territory will be promoted by such incorporation, it shall make an order declaring that such territory, the boundaries of which shall be therein set forth, by courses and distances, and may be enlarged or diminished by such court from the boundaries, specified in such application, as justice may require, shall be an incorporated village, by the name specified in such application, or by such other name as to the court shall seem proper, if the electors thereof shall assent thereto, as hereinafter provided; and in such order it shall direct three inspectors of elections of the town or towns in which such territory shall lie, to be named therein, to perform the duties required of them by this act.

So amended by Laws of 1850, ch. 176.

§ 10. Such inspectors shall, without unnecessary delay, give notice of a meeting of the electors of the territory described in such order, to be held at some convenient place therein, to be specified in such notice, for the purpose of determining whether such territory shall be an incorporated village. At such meeting the polls shall be opened at ten o'clock in the forenoon and shall be kept open until four o'clock in the afternoon, when they shall be closed; and the time of opening and closing the same shall be specified in such notice.

Duty of inspectors.

§ 11. If there be a newspaper printed in such territory, such notice shall be published therein, once in each week for three successive weeks previous to such meeting; and if there be no newspaper so printed, copies of such notice shall be posted in at least ten of the most public places in such territory, at least three weeks previous to such meeting.

Notice to be published.

§ 12. Such inspectors shall preside and act as inspectors at such meeting, and all the laws of this state applicable to the election of town officers, shall apply to such meeting and to all the proceedings thereat, so far as the same shall be applicable, and are consistent with the provisions of this act.

Inspectors to preside.

§ 13. Every elector residing in such territory and qualified to vote for town officers in the town in which such territory or some part thereof shall lie, may vote at such meeting, by a ballot having the word thereon *yes*, or the word *no*.

Persons entitled to vote.

§ 14. Within fourteen days after such meeting, the inspectors presiding thereat shall cause a certificate of holding the same and of the canvass of the ballots given thereat, showing the whole number of such ballots, the number having thereon the word *yes*, and the number having thereon the word *no*, together with a copy of the notice of holding such meeting, and an affidavit of posting or publishing the same as aforesaid, to be submitted to the county judge of the county in

Inspectors to make a certificate of the canvass.

PART I.

which such order was granted, who shall examine the same, and if, from such examination, he shall be satisfied that all the proceedings in respect to notifying and holding such meeting, canvassing the votes given thereat and making such certificate, are legal, he shall endorse upon and annex to the papers so submitted to him, a certificate to that effect.

The judge may make a new order.

§ 15. If such judge shall be of the opinion that any of such proceedings were illegal, he shall make an order which shall be filed in the office of the county clerk of the county in which it shall be granted, and recorded by him, directing another meeting of the electors of such territory to be held for the purpose of determining whether such territory shall be an incorporated village; the meeting so ordered shall be notified and held as provided in this act in respect to such previous meeting; and all the provisions of this act in respect to such previous meeting and the duties of such inspectors in relation thereto and the proceedings thereat, shall apply to any subsequent meeting so ordered.

Certificate to be endorsed.

§ 16. Whenever such judge shall have endorsed on or annexed to the papers so submitted to him, such certificate, such papers together with such certificate shall be filed and recorded in such clerk's office; and such papers and certificate or the record thereof, or a transcript from such record, certified by such clerk, shall be presumptive evidence of the facts therein stated.

Evidence of assent or dissent to an incorporation.

§ 17. If a majority of such ballots shall have thereon the word *no*, the electors of such territory shall be deemed not to have assented to the incorporation thereof as a village, and no further proceedings shall be had in respect to such application; but if a majority of such ballots shall have thereon the word *yes*, the inhabitants of such territory shall, from the time of filing as aforesaid in the clerk's office, the papers so submitted to such judge and the certificate so made by him, be a body politic and corporate by the style of the village of the name specified in the order so made by such court; and in such case the said inspectors shall, without unnecessary delay, give notice in the manner prescribed in the eleventh section of this act, of the time and place of a meeting of the electors of such village, to elect officers thereof. Notice shall be given in like manner, by the trustees, of every election of officers in such village subsequent to the first.

Meetings for election when and how held.

§ 18. Such meeting and every subsequent meeting for the election of officers in such village, shall be held at some convenient place therein; the polls shall be kept open for the space of at least three hours uninterruptedly between ten o'clock in the forenoon and four o'clock in the afternoon, and the time of opening and closing the polls shall be specified in the notice of such meeting.

Inspectors of election.

§ 19. Such inspectors shall preside at such first election of inspectors thereof; the trustees shall preside as inspectors at every such subsequent election, except in cases otherwise

provided for by this act; and all the laws of this state in relation to the election of town officers and notifying them of their election shall apply to such first election, and to all subsequent elections of officers in such village, so far as the same can be so applied and are consistent with this act.

§ 20. The officers presiding as inspectors at such first election, or at any such subsequent election, shall canvass the votes given thereat, shall openly declare the result and shall make and subscribe a certificate of such canvass, which shall show the whole number of votes given, the number given for each person voted for, and the office for which he shall have been voted for; which certificate shall be recorded in the records of such village.

Votes, how
canvassed.

§ 21. At the first election and at all subsequent elections of officers in such village, every person qualified to vote for town officers in the town in which such village or any part thereof shall be situated, may vote for all the officers to be chosen; no person shall be elected as such officer unless he shall be entitled to vote at the election at which he shall be elected; the persons eligible and having the greatest number of votes shall be declared elected; and if two or more shall have the greatest and an equal number of votes, the officers presiding at the election shall forthwith determine by lot which shall be deemed elected; and in such case the facts shall be set forth in the certificate of the result made by such officers.

Persons en-
titled to
vote

§ 22. Every person elected at any such election, whose name shall be entered as a voter on the poll list kept thereat, shall be deemed to be notified of his election by the declaration of the result by the presiding officers; and every person so elected, whose name shall not be so entered, shall be notified of his election within ten days thereafter; and if elected at such first election, such notice shall be given by the inspectors presiding thereat, and if elected at a subsequent election, he shall be notified by the clerk of such village.

Notice to
officers
elected.

§ 23. The officers first elected in such village shall hold their offices until the third Tuesday of March next following their election; and those subsequently elected shall hold their offices until the third Tuesday of March next following the month in which they shall have been elected; but any of such officers may be sooner removed according to law.

Duration of
office.

§ 24. After the first election of officers in such village, they shall, except in cases of an election to fill a vacancy or vacancies, be elected on every first Tuesday of March, unless a town meeting shall be held on that day in the town in which such village or some part thereof shall be situated, in which case such election shall be held on the Wednesday next after such first Tuesday.

Annual
election.

§ 25. The officers of such village shall be five trustees, three assessors, one collector, one treasurer, one clerk, three street commissioners, when such village shall be a separate

Officers.

PART I.

Resignations.

road district, such number of fire wardens not exceeding five as the trustees shall from time to time, by a by-law, authorize and direct to be elected, and one poundmaster; and the resignation of any such officer shall be in writing, and shall not take effect until it shall be filed with the clerk.

Oath of office to be taken.

§ 26. Every officer elected in such village shall, within ten days after he shall be notified of his election, take and subscribe the oath of office prescribed by the constitution, and file the same with the clerk of such village; and in case of his omission to do so, he shall be deemed to have refused to serve, and his place shall be filled in the manner prescribed by this act.

Vacancies how to be filled.

§ 27. Whenever the office of more than two of the trustees shall be vacant, the remaining trustee or trustees shall give notice of a meeting of the electors of such village to fill vacancies and any others that may exist in any of the offices of such village, which shall be specified in such notice. If there be two trustees, they shall preside at such meeting; if there be only one, he, with one or more of the assessors shall so preside; and the officers so presiding, shall have all the powers and perform all the duties which all the trustees of such village could have or perform at such meeting, if present and presiding thereat. And when the offices of all the trustees shall be vacant, any three of the trustees elected at the last preceding election in such village shall give notice of such meeting, in the manner provided in this section, and any two of said trustees shall preside at such meeting, and shall have all the powers and perform all the duties relative thereto vested in the trustees of such village by this act.

Thus amended by Laws of 1861, ch. 178.

Electors may order money to be raised by tax.

§ 28. At any meeting of the electors of such village to elect village officers, or at any other meeting of such electors, duly notified by the trustees in the manner prescribed by this act, the persons entitled to vote to raise taxes in such village, may, by resolution, direct the trustees to cause to be raised by a general tax upon the taxable property liable to be assessed for taxes in such village, taxes for the following purposes, and for no other:

2. For procuring fire engines and the necessary apparatus therefor, and implements for hook and ladder companies, but no tax shall be raised for procuring more than one fire engine, unless the population of such village shall be more than one thousand persons, and one additional engine for every additional thousand of population, nor for procuring such implements for more than one hook and ladder company, unless such population shall exceed two thousand persons, and implements for one additional company for every additional two thousand of population;

3. For procuring the necessary ground, and erecting a suitable engine house for every fire engine and its apparatus so

procured, or for hiring suitable places for keeping them and for keeping such implements;

4. For making and maintaining such public wells and other reservoirs of water, and for procuring the necessary fixtures therefor, as the persons so entitled to vote to raise taxes, shall deem necessary for the extinguishment of fires in such village;

5. For procuring the necessary ground and erecting a pound for the use of such village, and for keeping the same in repair;

6. For cemetery purposes under the provisions and restrictions of chapter two hundred and nine of the laws of one thousand eight hundred and forty-seven;

7. For the necessary advances for making and repairing sidewalks, in cases where those required to make or repair them shall neglect or refuse to do so;

8. For constructing and repairing cross walks;

9. For insuring the public property of such village;

10. For prosecuting and defending suits in which such village shall be a party. When an execution issued against any village incorporated under this act, for costs in a suit commenced by such village, shall be returned unsatisfied in whole or in part, any person interested therein, or his attorney, may present a transcript of said judgment, a copy of such execution and return, together with an affidavit of the party so interested, or his attorney, of the amount due thereon, to any trustee of said village, who shall present the same to the trustees at their next meeting; and the said trustees shall include in the sum so due on said judgment as aforesaid, in their next assessment roll, without any vote of the inhabitants of said village, and cause such amount to be collected in addition to such tax as may be voted, and when so collected shall cause the same to be paid to the claimant or his legal representative;

11. For procuring the necessary blank books for records and accounts of such village, and for procuring such blanks as may be wanted for village purposes;

12. For publishing the by-laws of such village, notices of the meetings of electors and statements of accounts and claims allowed by the trustees;

13. For paying a compensation for their services, to the officers of such village, to whom such a compensation shall, by law, be expressly allowed and made payable by such village;

14. For highway purposes, when such village shall be a separate road district, and no other mode shall be prescribed by law for raising money therein for highway purposes;

15. For the necessary expenses of doing any specific act for such village, which it or any of its officers shall be, by law, expressly required or authorized to do;

16. For any other specific purpose for which such village

PART I.

Resignations.

Oath of office to be taken.

Vacancies how to be filled.

Electors may order money to be raised by tax.

road district, such number of fire wardens not exceeding five as the trustees shall from time to time, by a by-law, authorize and direct to be elected, and one poundmaster; and the resignation of any such officer shall be in writing, and shall not take effect until it shall be filed with the clerk.

§ 26. Every officer elected in such village shall, within ten days after he shall be notified of his election, take and subscribe the oath of office prescribed by the constitution, and file the same with the clerk of such village; and in case of his omission to do so, he shall be deemed to have refused to serve, and his place shall be filled in the manner prescribed by this act.

§ 27. Whenever the office of more than two of the trustees shall be vacant, the remaining trustee or trustees shall give notice of a meeting of the electors of such village to fill vacancies and any others that may exist in any of the offices of such village, which shall be specified in such notice. If there be two trustees, they shall preside at such meeting; if there be only one, he, with one or more of the assessors shall so preside; and the officers so presiding, shall have all the powers and perform all the duties which all the trustees of such village could have or perform at such meeting, if present and presiding thereat. And when the offices of all the trustees shall be vacant, any three of the trustees elected at the last preceding election in such village shall give notice of such meeting, in the manner provided in this section, and any two of said trustees shall preside at such meeting, and shall have all the powers and perform all the duties relative thereto vested in the trustees of such village by this act.

Thus amended by Laws of 1861, ch. 178.

§ 28. At any meeting of the electors of such village to elect village officers, or at any other meeting of such electors, duly notified by the trustees in the manner prescribed by this act, the persons entitled to vote to raise taxes in such village, may, by resolution, direct the trustees to cause to be raised by a general tax upon the taxable property liable to be assessed for taxes in such village, taxes for the following purposes, and for no other:

2. For procuring fire engines and the necessary apparatus therefor, and implements for hook and ladder companies, but no tax shall be raised for procuring more than one fire engine, unless the population of such village shall be more than one thousand persons, and one additional engine for every additional thousand of population, nor for procuring such implements for more than one hook and ladder company, unless such population shall exceed two thousand persons, and implements for one additional company for every additional two thousand of population;

3. For procuring the necessary ground, and erecting a suitable engine house for every fire engine and its apparatus so

procured, or for hiring suitable places for keeping them and for keeping such implements;

4. For making and maintaining such public wells and other reservoirs of water, and for procuring the necessary fixtures therefor, as the persons so entitled to vote to raise taxes, shall deem necessary for the extinguishment of fires in such village;

5. For procuring the necessary ground and erecting a pound for the use of such village, and for keeping the same in repair;

6. For cemetery purposes under the provisions and restrictions of chapter two hundred and nine of the laws of one thousand eight hundred and forty-seven;

7. For the necessary advances for making and repairing sidewalks, in cases where those required to make or repair them shall neglect or refuse to do so;

8. For constructing and repairing cross walks;

9. For insuring the public property of such village;

10. For prosecuting and defending suits in which such village shall be a party. When an execution issued against any village incorporated under this act, for costs in a suit commenced by such village, shall be returned unsatisfied in whole or in part, any person interested therein, or his attorney, may present a transcript of said judgment, a copy of such execution and return, together with an affidavit of the party so interested, or his attorney, of the amount due thereon, to any trustee of said village, who shall present the same to the trustees at their next meeting; and the said trustees shall include in the sum so due on said judgment as aforesaid, in their next assessment roll, without any vote of the inhabitants of said village, and cause such amount to be collected in addition to such tax as may be voted, and when so collected shall cause the same to be paid to the claimant or his legal representative;

11. For procuring the necessary blank books for records and accounts of such village, and for procuring such blanks as may be wanted for village purposes;

12. For publishing the by-laws of such village, notices of the meetings of electors and statements of accounts and claims allowed by the trustees;

13. For paying a compensation for their services, to the officers of such village, to whom such a compensation shall, by law, be expressly allowed and made payable by such village;

14. For highway purposes, when such village shall be a separate road district, and no other mode shall be prescribed by law for raising money therein for highway purposes;

15. For the necessary expenses of doing any specific act for such village, which it or any of its officers shall be, by law, expressly required or authorized to do;

16. For any other specific purpose for which such village

PART I.

shall be expressly authorized, by law, to raise a tax in such manner.

So amended by Laws of 1851, ch. 519, and 1852, ch. 184. Post, p. 810.

Notice to
be publish-
ed.

§ 29. No tax shall be voted to be raised at any such meeting in such village, unless the notice of holding such meeting required by this act to be given, shall specify the amount and objects of such tax, and the specific sum required or proposed to be raised for each object, and shall state that such meeting will be called upon to vote in respect to raising the sum or sums so specified.

Objects to
be speci-
fied.

§ 30. Every resolution adopted at any such meeting, directing any tax to be raised, shall distinctly specify the objects for which such tax shall be directed to be raised, and the sum to be applied to each of such objects; otherwise such resolution shall be absolutely void.

Final vote
how to be
taken.

§ 31. Any sum specified in any such notice, and proposed to be raised by tax for any specific object, may be reduced, but shall not be increased before the final vote in respect to directing the same to be so raised; the final vote in respect to raising every such specific sum shall be taken separately; every proposition to raise any such specific sum shall be deemed a separate and distinct resolution, in the proceedings thereon at such meeting; and it shall be in form a distinct and separate resolution, and shall be so entered in the record of the proceedings of such meeting, if any person entitled to vote thereon shall so require. Every vote to raise any sum of money in such village, which shall not be taken as herein provided, shall be absolutely void.

Qualifica-
tion of
voters.

§ 32. No person shall vote at any such meeting in respect to raising any such tax, unless he shall be qualified to vote for village officers in such village, and shall own property liable to be assessed for taxes therein.

Taxes how
assessed
and col-
lected.

§ 33. All taxes voted to be raised in such village, shall be assessed and collected in conformity, as far as practicable, with the provisions of law in respect to the assessment and collection of taxes by town assessors and collectors.

Money rais-
ed for spe-
cific pur-
poses.

§ 34. Whenever money shall be raised by tax in such village for any specific purpose, it shall not be applied to any other purpose without such a vote directing such application as was required to authorize the raising thereof; nor shall any money belonging to such village, derived from other sources than such taxes, be applied to any purpose whatever without such a vote directing its specific application.

Accounts to
be audited
before paid.

§ 35. No account or claim against such village shall be paid until it shall have been presented to the trustees thereof and audited and allowed by them; and when any such account or claim shall be so audited, the trustees auditing the same shall endorse thereon, or annex thereto, a certificate subscribed by them, of such auditing and of allowing or disallowing the same, in which the sum allowed, if any, and the charges for which the same was allowed, shall be specified.

§ 36. No such account or claim shall be audited or allowed by the trustees, unless it shall be made out in items, and shall be accompanied with an affidavit of the person claiming to have done the services or made the disbursements therein charged, that the several items of such account or claim are correct, that the services therein charged have been rendered, that the disbursements therein charged have been made, and that no part thereof has been paid. Such affidavit shall be endorsed on or annexed to such account or claim, and presented and preserved therewith. The president or trustee presiding when such account or claim shall be presented to the trustees, may administer the oath required by this section; and the trustees may examine the claimant on oath, as to any items embraced in such account or claim.

CH. XVIII.
Accounts
how to be
made out.

§ 37. Nothing in the last preceding section shall be construed to prevent the trustees from disallowing any account or claim in whole or in part, when so made out and verified, nor from requiring other or further evidence of the correctness and reasonableness thereof.

May be dis-
allowed.

§ 38. Every account or claim against such village, presented to the trustees in any year, shall be numbered from number one upwards, in the order in which it shall be presented, and a memorandum of the time of presenting the same, the name of the person in whose favor it shall be made out, and of the person by whom it shall be presented, shall be entered in the records of the proceedings of the trustees.

Accounts to
be number-
ed.

§ 39. Every warrant drawn by the trustees to pay any account or claim, shall refer to such account by its number, the name of the person in whose favor it was made out, and the time when it was presented; and a memorandum of such reference and of the amount of the warrant, shall be entered in such records before such warrant shall be delivered to the claimant.

Warrants
to refer to
account and
number.

§ 40. No trustee shall allow or subscribe a certificate of the allowance of any item in any account or claim against such village, which such village shall not be legally bound to pay, or for the payment of which it could not lawfully raise money therein by tax; nor shall any trustee sign any warrant for the payment of any such account or claim from any fund, from which such account or claim, or any part thereof shall not be payable.

Accounts
not to be
certified in
certain
cases.

§ 41. No such account or claim shall be paid except by the treasurer, on the warrant of the trustees, endorsed on or annexed to the account or claim for which it shall be drawn, and specifying the fund from which such account or claim is payable; and it shall be paid out of no other; nor shall the treasurer pay any warrant drawn by the trustees, from any fund, from which he shall know that the account or claim for which the same shall be drawn or any part thereof is not payable.

Payments
how made.

§ 42. Whenever any such account or claim shall be paid,

PART I.

shall be expressly authorized, by law, to raise a tax in such manner.

So amended by Laws of 1861, ch. 519, and 1862, ch. 184. Post, p. 810.

Notice to
be publish-
ed.

§ 29. No tax shall be voted to be raised at any such meeting in such village, unless the notice of holding such meeting required by this act to be given, shall specify the amount and objects of such tax, and the specific sum required or proposed to be raised for each object, and shall state that such meeting will be called upon to vote in respect to raising the sum or sums so specified.

Objects to
be speci-
fied.

§ 30. Every resolution adopted at any such meeting, directing any tax to be raised, shall distinctly specify the objects for which such tax shall be directed to be raised, and the sum to be applied to each of such objects; otherwise such resolution shall be absolutely void.

Final vote
how to be
taken.

§ 31. Any sum specified in any such notice, and proposed to be raised by tax for any specific object, may be reduced, but shall not be increased before the final vote in respect to directing the same to be so raised; the final vote in respect to raising every such specific sum shall be taken separately; every proposition to raise any such specific sum shall be deemed a separate and distinct resolution, in the proceedings thereon at such meeting; and it shall be in form a distinct and separate resolution, and shall be so entered in the record of the proceedings of such meeting, if any person entitled to vote thereon shall so require. Every vote to raise any sum of money in such village, which shall not be taken as herein provided, shall be absolutely void.

Qualifica-
tion of
voters.

§ 32. No person shall vote at any such meeting in respect to raising any such tax, unless he shall be qualified to vote for village officers in such village, and shall own property liable to be assessed for taxes therein.

Taxes how
assessed
and col-
lected.

§ 33. All taxes voted to be raised in such village, shall be assessed and collected in conformity, as far as practicable, with the provisions of law in respect to the assessment and collection of taxes by town assessors and collectors.

Money rais-
ed for spe-
cific pur-
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Accounts to
be audited
before paid.

§ 35. No account or claim against such village shall be paid until it shall have been presented to the trustees thereof and audited and allowed by them; and when any such account or claim shall be so audited, the trustees auditing the same, shall endorse thereon, or annex thereto, a certificate subscribed by them, of such auditing and of allowing or disallowing the same, in which the sum allowed, if any, and the charges for which the same was allowed, shall be specified.

§ 36. No such account or claim shall be audited or allowed by the trustees, unless it shall be made out in items, and shall be accompanied with an affidavit of the person claiming to have done the services or made the disbursements therein charged, that the several items of such account or claim are correct, that the services therein charged have been rendered, that the disbursements therein charged have been made, and that no part thereof has been paid. Such affidavit shall be endorsed on or annexed to such account or claim, and presented and preserved therewith. The president or trustee presiding when such account or claim shall be presented to the trustees, may administer the oath required by this section; and the trustees may examine the claimant on oath, as to any items embraced in such account or claim.

OH. XVIII.
Accounts
how to be
made out.

§ 37. Nothing in the last preceding section shall be construed to prevent the trustees from disallowing any account or claim in whole or in part, when so made out and verified, nor from requiring other or further evidence of the correctness and reasonableness thereof.

May be dis-
allowed.

§ 38. Every account or claim against such village, presented to the trustees in any year, shall be numbered from number one upwards, in the order in which it shall be presented, and a memorandum of the time of presenting the same, the name of the person in whose favor it shall be made out, and of the person by whom it shall be presented, shall be entered in the records of the proceedings of the trustees.

Accounts to
be number-
ed.

§ 39. Every warrant drawn by the trustees to pay any account or claim, shall refer to such account by its number, the name of the person in whose favor it was made out, and the time when it was presented; and a memorandum of such reference and of the amount of the warrant, shall be entered in such records before such warrant shall be delivered to the claimant.

Warrants
to refer to
account and
number.

§ 40. No trustee shall allow or subscribe a certificate of the allowance of any item in any account or claim against such village, which such village shall not be legally bound to pay, or for the payment of which it could not lawfully raise money therein by tax; nor shall any trustee sign any warrant for the payment of any such account or claim from any fund, from which such account or claim, or any part thereof shall not be payable.

Accounts
not to be
certified in
certain
cases.

§ 41. No such account or claim shall be paid except by the treasurer, on the warrant of the trustees, endorsed on or annexed to the account or claim for which it shall be drawn, and specifying the fund from which such account or claim is payable; and it shall be paid out of no other; nor shall the treasurer pay any warrant drawn by the trustees, from any fund, from which he shall know that the account or claim for which the same shall be drawn or any part thereof is not payable.

Payments
how made.

§ 42. Whenever any such account or claim shall be paid,

PART I.

such leasing, with interest thereon, at the rate of ten per cent a year from the time of such leasing, or to the treasurer of such village for his use.

Lease to be evidence of legality.

§ 54. The lease executed by the trustees shall be presumptive evidence that all the proceedings which terminated in making such lease, from and including the voting of the tax or the directing of the sidewalk to be made or repaired, to and including such leasing, were legal.

Statement of claims allowed to be published.

§ 55. Within ten days next preceding every annual meeting of the electors of such village, if there be a public newspaper printed therein, the trustees shall cause to be published in such paper, and if there be none, they shall cause to be posted in two of the most public places in such village, a statement which shall show the name of every person who shall within the time hereinafter specified, have had any account or claim allowed by them, the amount of such account or claim as presented, the amount allowed, and a brief statement of the nature of the demand. The first statement so published or posted shall embrace all accounts allowed to the time of publishing or posting the same, from the time of the incorporation of such village, and each subsequent statement shall embrace all accounts allowed to the time of publishing or posting the same, from the time of publishing or posting the last preceding statement.

Duty of the president.

§ 56. The president of such village shall preside at all meetings of the trustees thereof when he shall be present; he shall call special meetings of the trustees, when, in his opinion, the interests of such village shall require it, and whenever he shall be requested so to do by two or more of the trustees; he shall take care that all the by-laws of such village are faithfully executed; he shall prosecute, in the corporate name and for the use of such village, for all penalties incurred by any violation of such by-laws; and he shall perform such other duties as shall be imposed upon him by law or by the by-laws of such village.

Powers and duties of trustees.

§ 57. All meetings of the trustees of such village shall be public, and all persons may attend the same; and it shall be the duty of such trustees:

1. To appoint, from time to time, one of their number to be president of such village, and also to appoint one of their number to preside at any meeting of such trustees when the president shall be absent;
2. To appoint a suitable person to keep a poll list at any meeting of the electors of such village when such a poll list shall be required to be kept, and the clerk shall not attend;
3. To fill any vacancy in any office of such village, except that of trustee, by appointing a person who shall hold the office for the residue of the term, unless sooner removed;
4. To provide for the care, custody and preservation of the public property, records and papers of such village;
5. To see that the officers of such village perform their

duties faithfully and correctly, and to cause measures to be taken to punish any neglect of duty by any of them;

6. To call special meetings of the electors of such village when in their judgment the interests of such village shall require it;

7. To give notice in the manner prescribed by law, of the annual and special meetings of such electors, which notice shall specify the officers to be chosen thereat; and to preside at such meetings;

8. To present to every such annual meeting a detailed statement, signed by them, showing when and from what sources all moneys paid into the treasury of such village during the preceding year, have been derived, and when, to whom and for what purpose all moneys paid from such treasury during the same period, have been paid; how much of any sum of money raised in such village during such year for any specific purpose, or directed at the last annual meeting, or at any special meeting, in such year, to be applied to any specific purpose, has been so applied, and how much thereof remains on hand; what sidewalks have been made or repaired in such village during such year at the expense of the owners, what at the expense of the village, and the amount of the collections on account of such expense; the names of the owners of lots from whom any sums are due on account of such expense, and the amounts due from them respectively; which statement shall be filed with the clerk;

9. To present to every such annual meeting, a detailed statement, subscribed by them, of the estimated expenses of such village for the ensuing year, to meet which taxes may be lawfully raised, specifying each item of anticipated expense; which statement shall be filed with the clerk;

10. To carry into effect every resolution adopted at any meeting of the electors of such village legally convened, which such meeting shall have authority to adopt;

11. To audit accounts and claims against such village; to draw a warrant on the treasurer for the payment of every account or claim allowed by them; and to publish or post a statement of the accounts and claims audited and allowed by them as required by this act;

12. To audit every claim of the poundmaster for fees and compensation in respect to animals found going at large in such village in violation of the by-laws thereof, as provided by law; and to hear and determine any application of the owner of any such animals for a remission of the penalty incurred by their so going at large;

13. To fix the penalty and decide upon the sufficiency of the sureties in the official bonds of the treasurer and collector of such village;

14. To fix the compensation of the assessors, treasurer, clerk and collector, subject to the provisions of this act;

15. To prescribe the manner subject to the provisions of

PART I.

such leasing, with interest thereon, at the rate of ten per cent a year from the time of such leasing, or to the treasurer of such village for his use.

Lease to be evidence of legality.

§ 54. The lease executed by the trustees shall be presumptive evidence that all the proceedings which terminated in making such lease, from and including the voting of the tax or the directing of the sidewalk to be made or repaired, to and including such leasing, were legal.

Statement of claims allowed to be published.

§ 55. Within ten days next preceding every annual meeting of the electors of such village, if there be a public newspaper printed therein, the trustees shall cause to be published in such paper, and if there be none, they shall cause to be posted in two of the most public places in such village, a statement which shall show the name of every person who shall within the time hereinafter specified, have had any account or claim allowed by them, the amount of such account or claim as presented, the amount allowed, and a brief statement of the nature of the demand. The first statement so published or posted shall embrace all accounts allowed to the time of publishing or posting the same, from the time of the incorporation of such village, and each subsequent statement shall embrace all accounts allowed to the time of publishing or posting the same, from the time of publishing or posting the last preceding statement.

Duty of the president.

§ 56. The president of such village shall preside at all meetings of the trustees thereof when he shall be present; he shall call special meetings of the trustees, when, in his opinion, the interests of such village shall require it, and whenever he shall be requested so to do by two or more of the trustees; he shall take care that all the by-laws of such village are faithfully executed; he shall prosecute, in the corporate name and for the use of such village, for all penalties incurred by any violation of such by-laws; and he shall perform such other duties as shall be imposed upon him by law or by the by-laws of such village.

Powers and duties of trustees.

§ 57. All meetings of the trustees of such village shall be public, and all persons may attend the same; and it shall be the duty of such trustees:

1. To appoint, from time to time, one of their number to be president of such village, and also to appoint one of their number to preside at any meeting of such trustees when the president shall be absent;
2. To appoint a suitable person to keep a poll list at any meeting of the electors of such village when such a poll list shall be required to be kept, and the clerk shall not attend;
3. To fill any vacancy in any office of such village, except that of trustee, by appointing a person who shall hold the office for the residue of the term, unless sooner removed;
4. To provide for the care, custody and preservation of the public property, records and papers of such village;
5. To see that the officers of such village perform their

duties faithfully and correctly, and to cause measures to be taken to punish any neglect of duty by any of them;

6. To call special meetings of the electors of such village when in their judgment the interests of such village shall require it;

7. To give notice in the manner prescribed by law, of the annual and special meetings of such electors, which notice shall specify the officers to be chosen thereat; and to preside at such meetings;

8. To present to every such annual meeting a detailed statement, signed by them, showing when and from what sources all moneys paid into the treasury of such village during the preceding year, have been derived, and when, to whom and for what purpose all moneys paid from such treasury during the same period, have been paid; how much of any sum of money raised in such village during such year for any specific purpose, or directed at the last annual meeting, or at any special meeting, in such year, to be applied to any specific purpose, has been so applied, and how much thereof remains on hand; what sidewalks have been made or repaired in such village during such year at the expense of the owners, what at the expense of the village, and the amount of the collections on account of such expense; the names of the owners of lots from whom any sums are due on account of such expense, and the amounts due from them respectively; which statement shall be filed with the clerk;

9. To present to every such annual meeting, a detailed statement, subscribed by them, of the estimated expenses of such village for the ensuing year, to meet which taxes may be lawfully raised, specifying each item of anticipated expense; which statement shall be filed with the clerk;

10. To carry into effect every resolution adopted at any meeting of the electors of such village legally convened, which such meeting shall have authority to adopt;

11. To audit accounts and claims against such village; to draw a warrant on the treasurer for the payment of every account or claim allowed by them; and to publish or post a statement of the accounts and claims audited and allowed by them as required by this act;

12. To audit every claim of the poundmaster for fees and compensation in respect to animals found going at large in such village in violation of the by-laws thereof, as provided by law; and to hear and determine any application of the owner of any such animals for a remission of the penalty incurred by their so going at large;

13. To fix the penalty and decide upon the sufficiency of the sureties in the official bonds of the treasurer and collector of such village;

14. To fix the compensation of the assessors, treasurer, clerk and collector, subject to the provisions of this act;

15. To prescribe the manner subject to the provisions of

PART I.

this act, in which the treasurer shall keep the accounts and vouchers and the clerk shall keep the records and papers of such village, and to examine such accounts and records, from time to time, in order to detect any errors therein ;

16. To issue warrants for the collection of taxes assessed in such village, and for the collection of the expenses of making or repairing sidewalks of the owners of lots on which such expenses shall be a lien, which shall be returnable in sixty days from the time of issuing the same ; and to renew such warrants for any such taxes or expenses which shall be returned as not paid ;

17. To execute leases of real estate leased by them to satisfy such taxes or expenses charged thereon and not collected by virtue of such warrants ;

18. To enter, or to authorize others to enter, in the day time, when in their judgment the interests of such village shall require it, any building in such village, in which there shall be a fire-place, stove or stove-pipe, for the purpose of examining the same, and to make such regulations in regard thereto, as a proper security against fire shall, in their judgment, require ;

19. To compel every male resident of such village, of the age of sixteen years or upwards, attending any fire in such village, to assist in extinguishing the same, when required by any fire warden or trustee, or by any officer of any fire company or hook and ladder company in such village ;

20. To compel all persons in such village to keep their sidewalks safely ;

21. To exercise exclusively within the limits of such village the powers vested in two justices of the peace, by the second section of the first article of the eighth title of the twentieth chapter of the first part of the Revised Statutes ;

22. To direct the manner of making and repairing sidewalks and cross-walks in such village, and when there are no street commissioners in such village, to superintend making and repairing the same ;

23. To prescribe the manner of repairing highways and laying out the money raised for highway purposes in such village, when the same shall be a separate road district, and in such case, to exercise all the powers and perform all the duties of commissioners of highways within the limits of such village, except in respect to laying out, altering and discontinuing roads, so far as those powers and duties shall be by law required to be performed therein, and shall be consistent with this act ;

24. To perform all the duties imposed on them by this act or by any other law of this state ;

25. To make such by-laws not inconsistent with the laws of this state, or of the United States, as they shall deem proper to carry into effect the provisions of this act and of other laws applicable to such village and the powers vested in any

officer thereof, and to prescribe penalties not exceeding twenty-five dollars for each violation of any such by-law; but no such by-law shall prescribe any penalty for any act which shall be prohibited and for doing which a penalty shall be prescribed, by the laws of this state; and no such by-law shall take effect until two days after it shall have been published in a newspaper printed in such village, if there be one, and if there be none, until four days after a printed copy thereof shall have been posted in ten of the most public places in such village; of which publication or posting an affidavit shall be made and filed with the village clerk within six days after it shall take place;

25. It shall be the duty of the trustees to audit and allow the necessary and proper expenses of procuring such village to be incorporated, and the same shall be assessed and raised upon the taxable property of such village, in the same manner as if the same had been directed to be raised by a vote of the electors of said village.

So amended by Laws of 1851, ch. 519. Post, p. 810.

§ 58. Such trustee shall have power, in their discretion :

Further powers of trustees.

1. To restrain cattle, horses, sheep, swine and geese from going at large in such village, under a penalty not exceeding five dollars, for every such animal, found so going at large in violation of the by-laws of such village, which animals so going at large shall be liable to be distrained, impounded and sold as provided by this act; and the owner of every such animal shall be liable to such penalty, which may be sued for and recovered with costs, in the corporate name and for the use of such village;

2. To prohibit the encumbering of the sidewalks of such village with any materials whatever, and riding and driving thereon, except to cross the same;

3. To compel persons to remove snow from the side-walks opposite to and on the same side of the road with lots owned or occupied by them, within such time as may be prescribed by the by-laws of such village for that purpose;

4. To compel persons to remove dead animals and stagnant water from their premises;

5. To prohibit flying kites, rolling hoops and playing ball in the streets of such village, or in any of them;

6. To authorize and direct by a by-law, the election of a number of fire wardens in such village, not exceeding five.

7. To compel occupants of buildings in such village, in which a fire shall be kept, to keep fire buckets.

§ 59. Whenever the electors of such village shall, pursuant to the provisions of this act, direct any sum of money to be raised by tax, it shall be the duty of the assessors of such village to assess the same, and make out and complete an assessment of such tax in the manner, as nearly as practicable, prescribed by law for making assessments by town assessors; and they shall deliver the same to the trustees of

Duty of assessors.

PART I.

such village within sixty days after the meeting at which such tax was directed to be raised.

Their pay. § 60. The assessors shall receive for their services a compensation to be fixed by the by-laws of such village, which shall not exceed the compensation allowed to town assessors for similar services.

Collector to give bond. § 61. Before the collector of such village shall receive any warrant for the collection of taxes, or the expenses of making or repairing side-walks, he shall execute to such village by its corporate name, and deliver to the trustees thereof, a bond with sufficient sureties to be approved by them, by a certificate of approval, signed by them and endorsed thereon, conditioned for the faithful performance of his official duties; and if he shall neglect to execute and deliver to the trustees such bond within three days after being notified by the president to do so, his office shall be vacant.

30 B., 650.

To collect money. § 62. It shall be the duty of such collector, within the time prescribed in any such warrant for the return thereof, to collect all such sums of money as he shall be thereby required to collect, which can be collected by him, to pay over all such sums collected by him to the treasurer of such village, and to return such warrant to the trustees with his return thereon written, subscribed by him, and specifying any such sum or sums of money not collected by him by reason of his being unable to find property in such village, out of which he could collect the same; and if any sum be returned by him not collected, his return shall be accompanied by his affidavit that the facts therein stated are true.

Collector's pay. § 63. Such collector shall receive for his services a compensation to be fixed by the by-laws of such village, which shall not exceed the compensation allowed for similar services to the collector of any town, in which any part of such village shall be located.

Treasurer to give bond. § 64. Before the treasurer of such village shall enter upon the duties of his office, he shall execute to such village by its corporate name, and deliver to the trustees thereof, a bond with sufficient sureties to be approved by them, by a certificate of such approval, signed by them and endorsed thereon, conditioned for the faithful performance of his official duties; and if he shall neglect to execute and deliver to the trustees such bond within three days after being notified by the president to do so, his office shall be vacant.

His duties. § 65. Such treasurer shall receive and safely keep, and he shall pay out when lawfully required to do so, all moneys belonging to such village; he shall keep accounts of all such moneys as by law he shall be required to keep the same; he shall preserve all vouchers filed in his office; he shall comply with every law of this state and with every by-law of such village legally adopted, in respect to his duties; and he, or in case of his death, his executors or administrators

shall, on demand, deliver to his successor in office, on oath, all books and vouchers belonging to his office, and all money and other property in his or their custody, belonging to such village.

§ 66. The treasurer shall so keep his accounts as to show when and from what sources all moneys paid to him shall have been received, and when and to whom, and for what purpose, all moneys paid out by him, shall have been paid. His accounts.

§ 67. When any money shall be raised by tax in such village for any specific purpose, or, by a vote or resolution of the electors thereof, shall be directed to be applied to any specific purpose, the treasurer shall keep a separate account in respect to such money, which shall show the amount thereof received by him, and when and to whom any portion thereof shall have been paid. Separate accounts in certain cases.

§ 68. No payment shall be made by the treasurer from any money belonging to such village, except upon the warrant of the trustees, endorsed on or annexed to the account or claim for which it shall be drawn, and specifying the fund from which it is payable, nor unless such account or claim shall appear by a certificate endorsed thereon or annexed thereto and signed by the trustees, to have been audited and allowed by them; and when any such warrant shall be paid, the treasurer shall file and keep the same, together with the papers presented to him therewith, as required by this act. Payments how made.

§ 69. The treasurer shall exhibit his books of accounts and vouchers at every annual meeting of the electors of such village, and at every special meeting thereof, when required to do so by any trustee; they shall at all times be open to the inspection of any one or more of the trustees; and whenever required by the trustees, he shall furnish abstracts or statements therefrom for their use or to be presented to any such meeting. Treasurer's books to be exhibited at annual meeting.

§ 70. The treasurer shall receive such compensation for his services as shall be fixed by the by-laws of such village, not exceeding the compensation allowed to county treasurers for similar services. His pay.

§ 71. The clerk of such village shall have the custody of, and shall safely keep all the records, books and papers thereof, except such as shall pertain to the treasurer's office or to the business thereof, and of which the treasurer should have the custody; he shall attend all meetings of the trustees and record all their proceedings; he shall file all papers and record all matters which he shall, by law or by the by-laws of such village, be required to file or record; he shall attend all meetings of the electors of such village, and keep a poll list at such meetings when required by the trustees to do so; and he, or in case of his death, his executors or administrators, shall, on demand, deliver to his successor in office, on oath, all records, books, papers and other property of such village, in his or their custody. Duty of the clerk.

PART I.
Duty of the clerk.

§ 72. The clerk shall record in such records a copy certified by the county clerk, of the order made by the court of sessions and of the proceedings filed in the county clerk's office, to incorporate such village, which shall, when so recorded, be presumptive evidence of the facts therein stated; he shall also record the by-laws of such village, all votes and resolutions adopted at any village meeting, the certificate of the canvass of the votes given at any election, all votes and resolutions adopted by the trustees, the auditing and allowance or disallowance of every account or claim presented to them, the drawing of every warrant by the trustees upon the treasurer, the number thereof, and of the account for which it shall be drawn, all appointments made by the trustees all of which shall be by resolution, and all other matters which shall be proper to be recorded in the records of such village, or which the trustees shall, by by-laws, direct to be so recorded; and he shall file in his office every account and claim which shall be disallowed by the trustees.

Copy of resolution to raise taxes to be given to assessors.

§ 73. Within three days after any meeting of the electors of such village shall have voted to raise any tax, the clerk shall furnish to the assessors a certified copy of the resolution or vote for raising such tax, and he shall also furnish a like copy to the treasurer, with a like copy of any vote or resolution adopted at such meeting, directing the specific application of any of the funds of such village.

Other duties of clerk.

§ 74. The clerk shall perform such other duties as shall be lawfully imposed on him by the by-laws of such village, and he shall receive a compensation for his services to be fixed by such by-laws, which shall not exceed the compensation allowed to town clerks for similar services.

Records, &c., to be delivered to successors in office.

§ 75. The delivery of records, books, vouchers, money and other property of such village, to the successor in office of a treasurer or clerk, may be enforced in the manner prescribed in the fifth article of the sixth title of the fifth chapter of the first part of the Revised Statutes.

Duty of fire wardens.

§ 76. The fire wardens shall, from time to time, examine the fire engines, fire buckets, and other apparatus for extinguishing fires in such village, and report their condition to the trustees; they shall attend such fires and give directions in respect to the manner of extinguishing the same, and it shall be the duty of all persons who shall be required to assist in extinguishing such fires, to obey such directions; they may, in the day time, enter any building in such village in which there shall be a fire-place, stove or stove-pipe, for the purpose of examining the same; they may also, in the day time, enter upon any premises in such village for the purpose of ascertaining whether ashes are safely kept thereon; and if they shall find any fire-place, stove, stove-pipe, or place of keeping ashes, unsafe, they shall report the same to the trustees.

Street commissioners.

§ 77. The street commissioners shall, under the direction of the trustees, superintend the making and repairing of side-

walks, and the expenditure upon the streets of such village, of the money raised for that purpose; they shall, within such village, perform the duties of overseers of highways so far as such duties shall be required to be performed therein; and they shall receive such compensation for their services as shall be fixed by the by-laws of such village, not exceeding the compensation allowed to overseers of highways.

§ 78. It shall be the duty of the poundmaster to distrain all animals which he shall find going at large in such village in violation of the by-laws thereof, and all persons may distrain such animals and drive them to the pound of such village; and when they shall be distrained by him or by others and driven to such pound, he shall keep them in his custody until they shall be disposed of according to law.

Pound
master.

§ 79. Within twenty-four hours after any such animals shall come into his custody, the poundmaster shall give notice thereof to the president of such village, or if he be absent, to one of the trustees, and also to the owner of such animals if he be known and be a resident of such village; and if such owner shall not be known so that notice can be given to him within the time aforesaid, such notice shall be given to him within twenty-four hours after he shall become known, if he shall be a resident of such village.

To give
notice
about ani-
mals.

§ 80. Within twenty-four hours after any such animal shall come into his custody, the poundmaster shall, if they shall not be reclaimed by their owner, give notice of the sale thereof, by posting the same in at least six of the most public places in such village. Such sale shall not take place in less than six days from the time of posting the notice thereof.

To give no-
tice of the
sale thereof

§ 81. If the value of such animals exceed ten dollars, notice of the sale thereof shall be published once in each week for two successive weeks in a newspaper printed in such village, if there be one, and if there be none, then in the newspaper printed nearest to such village; if the value of such animals exceed twenty-five dollars, such notice shall be published as aforesaid, once in each week for four successive weeks; and in either case, if the residence of the owner be known and be within fifteen miles of such village, such notice shall be served on him personally or by leaving it at his residence at least ten days before the sale; but if his residence be more than fifteen miles from such village, such notice shall be put into the post office directed to him at his place of residence, within two days after its first publication.

Notice of
sale to be
published.

§ 82. One of the trustees shall attend every such sale, and may direct the manner of conducting the same, and shall see that the same is fairly conducted; and he may, in his discretion, direct it to be postponed, of which notice shall be given as in cases of the postponement of the sale of personal property by a sheriff.

One trustee
to attend
sale.

§ 83. At any time before such animals shall be sold, the owner shall be entitled to them on paying the poundmaster

Owner
when enti-
tled to ani-

PART I.
imals on
making
payment.

his fees and a reasonable compensation for feeding them, on paying to the treasurer the penalty incurred by their going at large in such village, and on satisfying the trustees of his ownership; and they may, in their discretion, remit such penalty either before or after a sale, if they shall be satisfied by affidavit to be filed with the clerk of such village, that such going at large of such animals was without any fault on the part of their owner or any of his agents.

Pound mas-
ter's fees.

§ 84. When any such animals shall be sold as aforesaid, the poundmaster shall be entitled to receive out of the money arising from such sale his fees for his services in respect to them, and a reasonable compensation for feeding them, to be audited and allowed as hereinafter provided; and he shall, within forty-eight hours after such sale, pay the balance to the treasurer.

Claim for
balance of
amount for
which ani-
mals were
sold.

§ 85. If the owner of any animals so sold, shall, within one year from the time of so paying to the treasurer the balance of the money arising from their sale, present to the trustees a claim for such balance, accompanied with an affidavit that such claim is well founded, and showing the grounds thereof they shall, if satisfied of the justice of such claim, allow the same and draw their warrant for its payment, but the penalty incurred by such animals going at large in such village, shall be deducted from such balance, and the remainder only shall be allowed and paid to such claimant, unless such penalty shall be remitted as provided in the eighty-third section of this act. Such claim shall be audited, and if allowed, it shall be allowed and a warrant drawn therefor and paid and such claim and the affidavit of the claim and the certificate of auditing and allowing the same and such warrant shall be filed in the manner provided in respect to accounts against such village, presented to the trustees.

If not
claimed
how ap-
plied.

§ 86. If such balance or any part thereof shall not be claimed by the person entitled thereto within such two years the electors of such village at any village meeting regularly convened, may direct it to be applied to any purpose to which money may be raised by tax therein.

Fees of
pound-
master.

§ 87. The poundmaster shall be entitled to the same as for receiving and discharging animals including those trained by himself, as are allowed to poundmasters in town for similar services, the same fees for making personal service on owners of animals as are allowed to constables for serving a summons issued by a justice of the peace, but no travel shall be allowed where the owner shall reside in such village the printer's fees for publishing notices at the rate charged for legal advertisements, and a reasonable compensation for feeding such animals.

To be audi-
ted by trust-
ees.

§ 88. Such fees and compensation shall be audited and allowed by the trustees in all cases before they shall be received by the poundmaster; and he shall receive no other fees or compensation for his services in any case.

CH. XVIII.
General
provisions.

§ 89. All the general laws of this state applicable to incorporated villages and to the officers thereof, shall apply to villages incorporated under the provisions of this act and the officers thereof, so far as the same can be so applied and are consistent with the provisions of this act.

§ 90. When an application in writing, signed by at least one-fourth as many persons entitled to vote for village officers in any incorporated village, as voted for such officers at the next preceding election thereof, shall be made to the trustees of such village, to call a meeting of the electors thereof to determine whether the same shall continue to be an incorporated village, such trustees shall call such meeting and preside as inspectors thereat, and the same shall be notified and held, the votes given thereat canvassed, the result declared, and a certificate thereof made and recorded in the same manner as nearly as practicable, as in case of the election of village officers. The polls at such meeting shall be kept open from ten o'clock in the forenoon to four o'clock in the afternoon; and every such elector may vote thereat, by a ballot having thereon the word *yes*, or the word *no*. If a majority of all the ballots given shall have thereon the word *no*, such village shall, at the expiration of six months from the time of holding such meeting, cease to be an incorporated village, and within that period such trustees shall call a special meeting of such electors, to direct as to the disposition of the property of such village; and at such meeting such electors may direct such property as shall remain after paying all claims for which such village shall be liable, to be disposed of in such manner as they shall deem proper. At the expiration of the said six months, all the records, books and papers belonging to such village shall be deposited with the town clerk of the town in which the same shall be located, or if located in more than one town, then with the town clerk of one of such towns, whose duty it shall be to preserve the same with the town records and papers of his town, and the supervisor of such town, or if such village was located in more than one town, the supervisors of such towns shall be the trustee or trustees of the property of such village. No suit in which such village shall be a party, nor any claim for or against such village, shall be affected by its ceasing to be an incorporated village.

Call for a
meeting to
determine
whether the
village shall
continue.

§ 91. At the meeting to be called after any such village shall have determined to dissolve its incorporation, it shall be lawful to raise by tax any sum that may be necessary to pay and discharge all the existing debts and liabilities of the said village.

Provision
to pay ex-
isting
debts.

§ 92. The electors of any village now incorporated, qualified to vote for officers therein, may, at any annual meeting, at which such officers shall be elected, declare, by a resolution, that any of the sections of this act to be specified in such resolution, shall apply to such village; and from and

Provision
respecting
the applica-
tion of sec-
tions of
this act.

PART I.

Resolution
to be pub-
lished.

after twenty days from the adoption of any such resolution, the sections of this act which shall be therein declared to apply to such village, shall apply to the same, and all laws inconsistent with the sections specified in such resolution, shall have no force or effect in respect to such village.

§ 93. Whenever any resolution shall be adopted in any village pursuant to the last preceding section of this act, the trustees of such village shall, within ten days thereafter, cause such resolution together with the sections of this act specified therein, to be published in a newspaper printed in such village, if there be one, and if there be none, then in the newspaper printed nearest to such village.

Right to
annul.

§ 94. The legislature may alter or annul any corporation formed under this act.

CHAP. 519.

AN ACT to amend "An act for the incorporation of villages," passed December 7, 1847.

PASSED July 11, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

[Section 1 repeals part of section 28, and section 2 amends section 57 of Law of 1847, ch. 426.] Ante, p. 789.

General
powers of
trustees.

§ 3. The trustee shall have power, and it shall be lawful for them in their discretion, to license public porters, solicitors or runners, cartmen, hackney coachmen, carriage drivers and guides, and by ordinance to establish rules and regulations in regard to their conduct as such, and to prevent any unnecessary noise and disturbance during the arrival and departure of any persons in public conveyances; and they shall have full power in their discretion, to pass ordinances, and to alter, modify or repeal the same for the following purposes:

1. To prevent incumbering the streets, highways and alleys, or any of them, with logs, timber, lumber, wood, boxes or barrels, or any other substance or material whatever:

2. To prevent or regulate the firing of guns, pistols, crackers, rockets and squibs, the throwing or playing with fire-balls, or any other fireworks charged with gunpowder or other explosive or highly inflammable material, and the building of fires in any of the public streets of said village, and making of any improper noise which may disturb the peace of said village:

3. To prohibit any person from bringing, depositing or having, within the limits of said village, any dead carcass or other unwholesome substance, and to require its removal or destruction by any person who shall have on or about his premises any such substance or any putrid meat, fish, hides or skins of any kind; and on his default, to authorize the re-

moval or destruction thereof by some officer of said village; and to abate any nuisance within said village injurious to the public health:

4. To prevent the injury or destruction of shade trees planted along the streets and sidewalks in said village:

5. To prohibit or to regulate and determine the time and places of bathing and swimming in mill races, river or other waters in said village:

6. To prevent any riot or noise, disturbances or disorderly assemblages; to suppress and restrain disorderly houses, groceries, houses of ill-fame; to prevent and punish drunkenness and disorderly conduct in public streets and places; to restrain and punish vagrants, mendicants, street beggars, common prostitutes and disorderly persons:

7. To regulate or prevent the ringing of bells, blowing of horns, and crying of goods, wares and merchandize or other commodity, or hawking and peddling in the streets of said village.

§ 4. The trustees of said village may enforce the observance of all by-laws, rules, regulations and ordinances which they are permitted to pass in order to carry into effect the powers vested in them, by the imposition of penalties on the persons violating the same, not exceeding twenty-five dollars for one violation, to be recovered in an action before any justice of the peace in said village, or in the town in which the village is situated. Every ordinance or by-law imposing a penalty or forfeiture for the violation of its provisions, shall be published in the manner provided in the twenty-fifth section of the act hereby amended, before it takes effect; and a certificate of the clerk of said village shall be evidence of such publication.

May impose fines

§ 5. All actions brought to recover any penalty or forfeiture for the violation of any village ordinance, by-law, rule or regulation imposed by said village corporation, shall be brought in the name of the corporation; and the first process in any such action may be by summons or warrant, and execution may issue immediately on the rendition of judgment. If the defendant in any such action has no goods or chattels, lands or tenements, whereof the judgment can be collected, the execution shall require the defendant to be imprisoned in the jail of the county in which said village may be situated, for a term not exceeding thirty days; and no person shall be an incompetent judge, justice, juror or witness, in any action in which the said village is a party or is interested by reason of his being an inhabitant or owner of personal or real estate therein.

Actions how brought.

§ 6. Fire companies in such villages, organized in accordance with the provisions of part one, chapter eleven, title six of the Revised Statutes, shall hereafter be subject to all the provisions of the act entitled "An act in relation to firemen in incorporated villages," passed April 28, 1847; and all

Fire companies.

PART I.

Relation
of act.

vacancies now existing, or which may hereafter occur in such companies, shall be filled as provided in the said last mentioned act. Ante, p. 309.

§ 7. The above provisions shall apply to villages heretofore incorporated under the said act, as well as to those which shall hereafter be incorporated.

CHAP. 135.

AN ACT to authorize the formation of corporations for ferry purposes.

PASSED April 9, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Corpora-
tion how
formed.

§ 1. Any three or more persons, desirous of forming a company for the purpose of conducting and managing a ferry, may make, sign and acknowledge, before some officer authorized to take the acknowledgment of deeds, the certificate described in the second section of this act, and cause the same or a copy thereof, executed and acknowledged in like manner, to be filed in the clerk's office of the county or counties in which such ferry shall be or is intended to be established, and in the office of the secretary of state; and thereupon the persons signing such certificate, and such others as may become stockholders of the said company, shall be constituted and shall be a body corporate and politic by the name and for the term expressed in such certificate, and shall possess the powers enumerated in section one of title three, chapter eighteen and part one of the Revised Statutes. Ante, Vol. 1, p. 556.

Certificate.

§ 2. Such certificate shall state the name of the company, the places to and from which the ferry established or to be established shall run, the term, not exceeding fifty years, for which the company is to exist, the amount of the capital stock of such company and the amounts to which it may be increased, the number of shares of which it shall consist, the number of the directors, and the names of those who shall be the directors for the first year.

Affairs to
be man-
aged by
directors.

§ 3. The affairs of such company shall be managed by a board of directors not less than three nor more than fifteen in number, who shall be citizens of the United States, and a majority of whom shall be citizens of this state. Those named in the certificate shall be directors for the first year, and the like number of directors shall be chosen annually thereafter by the stockholders at such time and place as shall be fixed by the by-laws of such company.

Notice of
time and
place of
holding
election for
directors.

§ 4. Notice of the time and place of holding such election shall be given to the stockholders personally, or by leaving a written or printed notice at their respective dwellings or places of business, or by publication once in each week, for three

successive weeks, in one or more of the newspapers published in the county or counties in which such ferry shall be established, if any such papers are there published, and if not, in a newspaper published in an adjoining county; and the election shall be made by such of the stockholders as shall attend for that purpose; either in person or by proxy; all elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in the said company, and the persons receiving the greatest number of votes shall be directors; and when any vacancy shall happen in the board of directors by death, resignation or otherwise, it shall be filled for the remainder of the year, in such manner as may be provided for by the by-laws of the said company.

Vacancies may be filled.

§ 5. In case it shall happen, at any time, that an election of directors shall not be made on the day designated by the by-laws of the said company, when it ought to have been made, the company for that reason shall not be dissolved; but it shall be lawful, on any other day, to hold an election for directors in such manner as shall be provided for by the by-laws of the company, and all acts of the directors shall be valid and binding until their successors shall be elected.

Company not dissolved for not holding election.

§ 6. There shall be a president of the company, who shall be designated from the number of the directors, and also such subordinate officers as the company by its by-laws may name, who may be appointed, and be required to give such security for the faithful performance of the duties of their office as the company by its by-laws may require.

Officers.

§ 7. Stockholders only shall be eligible to the office of director; and if a director shall cease to be a stockholder, his office shall be deemed to be vacant.

Eligibility to the office of director.

§ 8. Each share of stock shall entitle the holder to one vote on all questions submitted to the stockholders for action.

What shall constitute a vote.

§ 9. The directors may call in the subscriptions to the stock at such times and in such installments as they may deem proper; and in case any stockholder shall refuse or neglect to make payment according to such call, the directors may require him to make such payment within twenty days thereafter, by serving a notice to that effect upon him personally, or by leaving a copy thereof at his residence or place of business, or by publishing the same in the manner prescribed by the fourth section of this act, upon pain of forfeiting his stock and all previous payments thereon; and in case the payment shall not be made as thus required, such stock, and all the previous payments thereon, shall be forfeited to the company.

Subscriptions may be called in.

§ 10. The stock of such company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the by-laws of the company.

Stock transferable.

§ 11. A copy of any certificate of incorporation, filed in pursuance of this act, certified by the county clerk or his deputy to be a true copy thereof and of the whole of such cer-

Certificate to be evidence of incorporation.

PART I.

Half of capital to be paid in before commencing business.

Right to maintain ferries.

Certificate stating amount of capital stock paid in, &c.

Liability of stockholders.

Capital stock may be increased.

tificate, shall be received in all courts and places as presumptive evidence of the due incorporation of the said company.

§ 12. No company formed under this act shall be authorized to commence its business until at least one-half of its capital shall have been actually paid in, nor until affidavits of such payment, sworn to by a majority of the directors, shall have been filed in each of the offices in which the certificate of incorporation is required to be filed by the first section of this act.

§ 13. Any company incorporated under this act shall have power to take by grant, from any authority entitled by the laws of this state to make such grant, or by assignment, the franchise or right to establish and maintain ferries, and to hold and exercise the said franchise or right, and to carry on the business appertaining thereto; but this act shall not be construed to confer any such franchise or right to impair, establish, admit or deny any of the rights of the mayor, aldermen and commonalty of the city of New York, or any other municipal corporation, or of the owner or owners of any legally existing ferry, or the vested rights of any other corporation whatever.

§ 14. The president and a majority of the directors, within thirty days after the payments of the last installments of the capital stock so fixed and limited by the company, shall make a certificate stating the amount of the capital stock so fixed and paid in, which certificate shall be signed and sworn to by the president and a majority of the directors; and they shall, within the said thirty days, file the same in each of the offices in which the certificate of incorporation is required to be filed by the first section of this act. The stockholders of any company organized under the provisions of this act shall be jointly and severally individually liable for all debts that may be due and owing to all their laborers, servants and apprentices for services performed for said company; and they shall, in addition to the liabilities hereinabove imposed, be severally individually liable to the creditors of the company in which they are stockholders, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by such company, until the whole amount of capital stock fixed and limited by such company shall have been paid in, and a certificate thereof shall have been made and recorded as prescribed in this section; and the capital stock so fixed and limited shall all be paid in, one-half thereof within one year, and the other half thereof within two years from the incorporation of said company, or such corporation shall be dissolved.

§ 15. The capital stock of any such company may be increased from time to time, until it reaches the limit specified in the certificate of incorporation, by a vote of the stockholders represented, not less than a majority of the whole stock of the company, at any annual meeting, or special meeting called for the purpose, and not otherwise; and when any such

increase shall have been thus determined upon, a certificate thereof, signed by a majority of the directors, shall, within ten days thereafter, be filed in each of the offices in which the original certificate of incorporation shall have been filed.

§ 16. The directors of any such company shall, at each annual meeting of the stockholders, and at every special meeting where directors are to be elected, submit to the stockholders a report, showing the amount of the capital stock of the company actually paid in, the property and effects of the company on hand, the debts due from the company, and the names and places of residence of the stockholders as nearly as the same can be ascertained; and shall also, within ten days thereafter, cause such report, with an affidavit sworn to by a majority of them, to be filed in the offices in which the original certificate of incorporation shall have been filed.

Annual report to stockholders.

§ 17. If any certificate or report made by the directors of any such company, in pursuance of the provisions of this act, shall be false in any material representation, all the directors who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all the debts of the company contracted while they were directors thereof.

Directors liable for false report.

CHAP. 228.

AN ACT for the incorporation of companies formed to navigate the ocean by steamships, or ships or vessels using caloric engines.

PASSED April 12, 1852, and title amended by Laws of 1853, ch. 124.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any seven or more persons who may desire to form a company for the purpose of building, for their own use, equipping, furnishing, fitting, purchasing, chartering, navigating and owning vessels to be propelled solely or partially by the power or aid of steam, or other expansive fluid or motive power, to be used in all lawful commerce and navigation upon the ocean and seas, and for the transportation of passengers, freights and mails, may make, sign and acknowledge before some officer competent to take the acknowledgment of deeds, and file in the office of the clerk of the county in which the principal office for the management of the business of the company shall be situated, and a duplicate thereof in the office of the secretary of state, a certificate in writing, in which shall be stated the corporate name of the said company, and the specific objects for which the company shall be formed, stating particularly the ports between which such vessels are intended to be navigated, the amount of the capital stock of said company, which shall not be less than fifty thousand nor more than eight millions dollars, the term of its existence not

Persons desiring to form a company to file a certificate and duplicate.

PART I.

to exceed twenty years, the number of shares of which the said stock shall consist, the number of directors, and their names, who shall manage the concerns of said company for the first year, and the name of the city or town and county in which the principal office for managing the affairs of the company is to be situated.

Amended by Laws of 1853, ch. 124. Post, p. 820. 1866, ch. 322, vol. 6, p. 720.

Shall be a
body politic
and corpo-
rate.

§ 2. When the certificate shall have been filed as aforesaid, and ten per cent. of the capital named paid in, the persons who shall have signed and acknowledged the same, and all others who thereafter may be holders of any share or shares of said capital stock, and their successors, shall be a body politic and corporate, in fact and in name, by the name stated in such certificate, and shall have and possess all the powers, and be subject to all the provisions contained in the third title of chapter eighteen of the first part of the Revised Statutes, and they shall by their corporate name be capable in law of purchasing, holding and conveying any real or personal estate whatever, which may be necessary to enable the said company to carry on the operations named in such certificate.

Directors,
election of.

§ 3. The stock, property and concerns of such company shall be managed by not less than five, nor more than nine directors, who shall respectively be stockholders in such company, and citizens of the United States, and a majority of whom shall be residents of this state; and who shall, except the first year be annually elected by the stockholders, at such time and place as shall be directed by the by-laws of the company, and public notice of the time and place of holding such election shall be published not less than twenty days previous thereto, in a newspaper printed in the place where the principal office for the management of the said company shall be situated, which elections shall be conducted in all respects in conformity with, and shall be subject to the provisions contained in the second article of title two, of the said chapter eighteen: each stockholder shall be entitled to as many votes as he owns shares of stock in the said company. The directors named in the articles of association shall appoint inspectors of the first election from among the stockholders who are not directors.

Calls upon
stockhold-
ers for
money.

§ 4. It shall be lawful for the directors to call in and demand from the stockholders respectively, all such sums of money by them subscribed at such times, and in such payments or installments, as the directors shall deem proper under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon, if payment shall not be made by the stockholders within sixty days after a demand or notice requiring such payment, and addressed to the defaulter or defaulters, shall have been published for three successive weeks, in any newspaper in the place where the principal office of the said company shall be situated; but the recovery by action of any installment shall preclude the corpora-

tion from forfeiting any stock, by reason of the non-payment of such installment.

§ 5. The stockholders of any corporation formed in pursuance of this act, shall be jointly and severally individually liable for all the debts that may be due and owing to all their laborers and operatives for services performed for such corporation.

Liability of stockholders to laborers.

§ 6. The stockholders of any such corporation shall be severally individually liable to the creditors of such corporation, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by such corporation, until the amount of its capital stock shall have been paid in, and a certificate thereof shall have been made and recorded as prescribed in the following section.

To creditors.

19 N. Y., 119; 6 D., 176; 3 Ab., 417; 26 B., 202.

§ 7. The president and a majority of the directors of any such corporation within thirty days after the payment of the last installment of the capital stock of such corporation, shall make a certificate, stating the amount of the capital stock of the corporation, and that the same is paid in, which certificate shall be signed and sworn to by a majority of the directors; and they shall, within the said thirty days, record the same in the office of the clerk of the county in which is located the principal business office of such corporation.

To file certificate with county clerk.

§ 8. But no stockholder shall be personally liable for the payment of any debt contracted by any such corporation, unless a suit for the collection of such debt shall be brought against such corporation within six years after the debt shall become due; and no suit shall be brought against any stockholder in such corporation, for any debt so contracted, until an execution shall have been returned unsatisfied in whole or in part.

Time for which stockholders are liable.

§ 9. The term stockholder, as used in this act, shall apply not only to such persons as appear by the books of the corporation or association to be such, but also to every equitable owner of stock, although the same may appear on such books in the name of another person; and also, to every person who shall have advanced the installments or purchase money of any stock in the name of any person under twenty-one years of age, and while such person remains a minor, to the extent of such advance; and also to every guardian or other trustee who shall voluntarily invest any trust funds in such stock; and no trust funds in the hands of such guardian or trustee, shall be in any way liable under the provisions of this act, by reason of any such investment; nor shall the person for whose benefit any such investment may be made, be responsible in respect to such stock, until thirty days after the time when such persons, respectively, become competent and able to control and dispose of the same; but the guardian or other trustee making such investment as aforesaid, shall continue responsible as a stockholder until such responsibility

Who are stockholders.

PART I.

devolves upon the person beneficially interested therein ; and in respect to stock held by a guardian or other trustee, under a transfer of the same by a third person, or under positive directions by a third person for such investment, the person making such transfer, or giving such directions, and his executors and administrators shall, for the purposes of this act, be deemed a stockholder, and the estate of such person, if he be deceased, shall be responsible for the debts and liabilities chargeable on such stock, according to the provisions of this act.

Record of
names and
residences.

§ 10. A book shall be provided and kept by every corporation described in the first section of this act, in which shall be entered the names and residences of the stockholders in such corporation at the time of the filing the certificate, and the names and residences of the original stockholders of every corporation or association organized after the day last mentioned, so far as the same are known to the officers of such corporation, the number of shares held by each stockholder, every registered transfer of stock upon the books of the corporation after the said last mentioned day, the names of the assignor and assignee, with their residences, and the number of shares transferred. The said book shall be at all times during the usual hours of transacting business, open to public inspection ; a neglect to provide and keep such book ready for examination, as herein provided, shall subject the corporation, whose duty it is to provide and keep the same, to a penalty of one hundred dollars for every day's neglect, and a refusal by any officer of such corporation or association to exhibit such book to any person demanding the inspection thereof, as herein provided, shall subject such officer to a penalty of fifty dollars ; the said penalties may be sued for, and recovered with costs, by any person who will prosecute for the same, the one moiety thereof to be paid to such person, and the other moiety to be paid into the treasury of the state. In all proceedings under the provisions of this act, the said book shall be presumptive evidence of the truth of the contents thereof, but such presumption may be repelled by evidence by any party or person interested in repelling the same.

Stock how
increased
or dimin-
ished.

§ 11. Any company which may be formed under this act, may increase or diminish its capital stock, by complying with the provisions of this act, to any amount which may be deemed proper and sufficient for the purposes of the corporation ; but before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital.

Existing
companies.

§ 12. Any existing company heretofore formed under any special act, may come under and avail itself of the privileges

and provisions of this act, by complying with the following provisions; and thereupon such company, its officers and stockholders, shall be subject to all the restrictions, duties and liabilities of this act.

§ 13. Whenever any company shall desire to avail itself of the privileges and provisions of this act, or for increasing or diminishing the amount of its capital stock, it shall be the duty of the directors to publish a notice signed by at least a majority of them, in a newspaper in the county where the principal office for managing its affairs is situated, if any shall be published therein, at least three successive weeks, convening a meeting of the stockholders thereof, specifying the objects of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be proposed to increase or diminish the capital, and a vote of at least two-thirds of all the shares of stock shall be necessary to an increase or diminution of its capital stock, or to enable a company to avail itself of the provisions of this act.

Notice to be published.

§ 14. If at any time specified in the notice provided for in the preceding section of this act, stockholders shall appear in person or by proxy, in number representing not less than two-thirds of all the shares of stock of the corporation, they shall organize by choosing one of the directors chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present, in person or by proxy, and if, on canvassing the votes, it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, or of availing itself of the privileges and provisions of this act, a certificate of the proceedings, showing a compliance with the provisions of this act, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed and verified by the affidavit of the chairman, and be countersigned by the secretary; and such certificate shall be acknowledged by the chairman, and filed as required by the first section of this act, and when so filed the capital stock of such corporation shall be increased or diminished to the amount specified in such certificate, and the company shall be entitled to the privileges and provisions, and be subject to the liabilities of this act, as the case may be.

Meeting of stockholders.

CHAP. 124.

AN ACT to amend an act entitled "An act for the incorporation of companies formed to navigate the ocean by steamships."

PASSED April 5, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Title of act amended.

§ 1. The act entitled "An act for the incorporation of companies formed to navigate the ocean by steamships," passed April twelfth, eighteen hundred and fifty-two, is hereby amended so that the title thereof shall read as follows: "An act for the incorporation of companies formed to navigate the ocean by steamships, or ships or vessels using caloric engines."

Section 1 amended

§ 2. Section first of the said act is hereby amended by striking out therein the words "two millions," and inserting in lieu thereof the words "four millions."

Saving clause.

§ 3. Nothing in the act hereby amended shall be so construed as to prevent the vessels of any company, organized under said act, from entering any of the ports in the Pacific ocean or its tributaries.

Ante, p. 815.

CHAP. 3.

AN ACT for the incorporation of companies formed to navigate the waters of Lake George by steamboats.

PASSED January 14, 1851.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

How companies may be formed.

§ 1. Any seven or more persons, who may desire to form a company for the purpose of building for their own use, equipping, furnishing, fitting, purchasing, chartering, navigating and owning vessels to be propelled solely or partially by the power and aid of steam, or other expansive fluid or motor power, to be used in all lawful commerce and navigation upon the waters of Lake George, and for the transportation of passengers, freights and mails, may organize and become and be a body politic and corporate, in fact and in name, by complying with and becoming subject to all the provisions of an act entitled "An act for the incorporation of companies formed to navigate the ocean by steamships," passed April 12, 1852.

Subject to the provisions of the act of April 12, 1852.

§ 2. All the provisions of the aforesaid act, entitled "An act for the incorporation of companies formed to navigate the ocean by steamships," passed April 12, 1852, are hereby de

clared to be applicable and extended to companies formed, or to be formed, under the provisions of this act.

§ 3. The capital stock of any company formed under the provisions of this act, shall not be less than twenty thousand dollars nor more than two hundred thousand dollars, anything in this act to the contrary notwithstanding.

Ante, p. 815.

CHAP. 232.

AN ACT for the incorporation of companies formed to navigate the lakes and rivers.

PASSED April 15, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. At any time hereafter, any five or more persons who may desire to form a company for the purpose of building for their own use, equipping, furnishing, fitting, purchasing, chartering or owning steam, sail or other boats, ships or vessels, or property, to be used in lawful business, commerce, trade or navigation upon the lakes or rivers, and for the carriage, transportation or storing of lading, freight, mails, property or passengers, on such lakes and rivers, may make, sign and acknowledge, before some officer competent to take the acknowledgment of deeds, and file in the office of the clerk of the county in which the principal office for the management of the business of the company shall be situated, and a duplicate thereof in the office of the secretary of state, a certificate in writing, in which shall be stated the corporate name of such company, except that such corporate name shall not be the name of any company which shall have been before formed under this act, and the specific objects for which the company shall be formed, stating particularly the amount of the capital stock of such company, which shall not be more than two million dollars, nor less than ten thousand dollars; the term of its existence not to exceed twenty years; the number of shares of which the said stock shall consist, the number of directors, and their names, who shall manage the affairs of such company for the first year, and the name of the city or town and county in which the principal office for managing the affairs of such company is to be situated.

21 N. Y., 455; 19 N. Y., 409. As amended by Laws of 1865, ch. 691; post, vol. 6, p. 576. For an addition to this section see Laws of 1862, ch. 205; post, p. 833.

§ 2. When the certificate shall have been filed as aforesaid, and twenty per cent of the capital named paid in, the persons who shall have signed and acknowledged such certificate, and all others who thereafter may be holders of any share or shares of the capital stock, and their successors, shall be a body politic and corporate, in fact and in name, by the name

PART I.

stated in such certificate, and by that name shall have succession, and shall be capable of suing and being sued in any court of law or equity, and they and their successors may have a common seal, and may make and alter the same at pleasure; and they shall, by their corporate name, be capable in law of purchasing, holding, owning, hiring, leasing and conveying any real or personal estate or property whatever, which may be necessary to enable such company to carry on the operations and business mentioned in such certificate, and all other real or personal estate or property which shall have been bona fide mortgaged or pledged to such company by way of security, or conveyed to such company in satisfaction or part satisfaction of any debt or debts previously contracted in the course of the transaction of the business of such company, and all other real or personal estate or property which shall be purchased by such company at sales upon judgments, orders or decrees which shall be obtained for such debts or in the course of the prosecution thereof; but no corporation formed under this act shall mortgage, pledge or create any other lien upon any personal or real property until all the capital stock shall be fully paid in, and then no such mortgage, pledge or lien shall be made or created, except to secure the purchase money of property upon which such liens are created.

Directors.

Notice of election.

§ 3. The stock, property, affairs and concerns of such company shall be managed by not less than three or more than thirteen directors, who shall respectively be stockholders of such company, and who shall, except those for the first year, be annually elected by the stockholders of such company at such time and place as shall be directed by the by-laws of such company. Public notice of the time and place of holding such election shall be published not less than thirty days previous thereto, in a newspaper printed in the city or town in which the principal office for the management of the affairs of such company shall be situated, and if there be no newspaper published in such city or town, then in the newspaper the principal office of the publication of which is nearest to such principal office of such company; which elections shall be conducted in all respects in conformity with and shall be subject to the provisions contained in the second article of title two, of chapter eighteen of the Revised Statutes, except as in this act may be otherwise provided. Such elections shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy; and such elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in such company, and the persons receiving the greatest number of votes shall be directors; and when any vacancy shall happen among the directors, occasioned by death, incapacity, resignation, the sale of stock or otherwise, it shall be filled for the remainder of the year in such manner as may be provided for by the by-

laws of such company. The directors named in the certificate aforesaid shall appoint inspectors of the first election from among stockholders who are not directors.

§ 4. In case it shall happen at any time that an election of directors shall not be made on the day designated by the by-laws of such company, when it ought to have been made, the company for that reason shall not be dissolved; but it shall be lawful, on any other day, to hold an election for directors, in such manner as shall be provided for by the said by-laws; and all acts of directors shall be valid and binding as against such company until their successors shall be elected.

Failure to elect not to dissolve company.

§ 5. The directors of such company shall have power to appoint a president and to appoint or employ such other subordinate officers as the by-laws of such company may designate, and to require any or all of such president and other officers to give such security for the faithful performance of their respective duties as such directors may require; and the directors shall have power to remove such president and other officers, respectively, at pleasure. Such officers shall respectively have such powers and perform such duties in the management of the property, affairs and concerns of such company, subject to the control of the directors, as the by-laws of such company shall prescribe. A majority of the directors for the time being shall constitute a quorum for the transaction of business.

Officers.

§ 6. It shall be lawful for the directors to call in and demand from the stockholders, respectively, all such sums of money, by them subscribed, at such times and in such payments or installments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon, if payment shall not be made by the stockholders within sixty days after a demand or notice requiring such payment shall have been published three successive weeks, as is prescribed in section three; but the collection by action of any installment shall preclude the company from forfeiting any stock by reason of the non-payment of such installment.

Payment of subscriptions.

§ 7. The directors shall have power to make such reasonable by-laws, not inconsistent with the laws of this state or of the United States, as they shall deem proper for the management and disposition of the property, affairs and concerns of such company; for prescribing the powers and duties of the officers of such company; for the appointment of such officers, and for the transaction and carrying on all kinds of business within the objects and purposes of such company.

By-laws.

§ 8. The stock of such company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the by-laws of such company; but no shares shall be transferable until all previous calls thereon shall have been fully paid in; and it shall not be lawful for any such company to use any of its funds in the purchase of any stock

Stock.

PART I.

in any other corporation formed under the laws of this state, or to hold the same, unless the same shall have been bona fide pledged, hypothecated or transferred to such company by way of security for, or in satisfaction, or part satisfaction, of a debt or of debts previously contracted in the course of the transaction of the business of such company, or unless the same shall be purchased by such company at sales upon judgments, orders or decrees which shall be obtained for such debts, or in the course of the prosecution thereof; and no railroad company or corporation shall have, own or hold any stock in any company to be formed under this act.

Proof of incorporation.

§ 9. The copy of any certificate of incorporation filed in pursuance of this act, certified by the county clerk in whose office the same is filed, under his official seal, to be a true copy of and of the whole of such certificate, shall be received in all courts and places as presumptive legal evidence of the matters therein stated.

Liability of stockholders.

§ 10. The stockholders of such company shall be jointly, severally and individually liable to the creditors of such company (to an amount equal to the amount of stock held by them respectively) for all debts and contracts made by such company, and for all claims and demands against such company (until the whole amount of capital stock fixed and limited by such company shall have been paid in, and a certificate thereof shall have been made and recorded, as prescribed in the following section), and the capital stock so fixed and limited shall all be paid in, at least one-half thereof within one year, and the remainder thereof within two years from the incorporation of such company, or such company shall be dissolved.

How stock to be paid in.

§ 11. Nothing but money shall be considered as payment of the capital stock of such company, except as herein provided. The president and a majority of the directors of such company, within thirty days after the payment of the last installment of the capital stock so fixed and limited by such company, shall make a certificate stating the amount of the capital stock of such company so fixed, limited and paid in, which certificate shall be signed and sworn to by the president and a majority of the directors of such company; and they shall, within the said thirty days, procure the same to be recorded in the office of the clerk of the county in which is located the principal office of such company. The directors of said companies may purchase steamboats, vessels

OH. XVIII.
Duty of
the court.

boilers, engines, machinery, wharves, docks, storehouses, and other property necessary for their business, and issue stock to the amount of the actual cash value thereof, and the stock so issued shall be declared and taken to be full stock, and not liable to any further calls, neither shall the holders thereof be liable for any further payment, but in all statements and reports of the company to be published, this stock shall not be stated or reported as being issued for cash paid to the company, but shall be reported in this respect according to the fact.

As amended by Laws of 1865, ch. 691. Post, vol. 6, p. 577.

§ 12. No stockholder shall, in any case, be personally liable for the payment of any debt contracted by, or claim or demand against such company, unless an action for the collection of such debt, claim or demand shall be brought against such company within one year after the same shall have become due or shall have accrued; and no action or proceeding shall be brought or maintained against any stockholder in such company for any such debt, claim or demand until an execution against the property of such company therefor shall have been returned unsatisfied, in whole or in part.

When
stockhold-
ers to be
personally
liable.

§ 13. Before any dividend shall be declared and paid, and at least once in each year, a certificate shall be made and signed by a majority of the directors of such company, and by the president thereof, and by the secretary thereof, if there be such an officer, which certificate shall state the property and claims and demands of such company, and as far as the same shall be known, the claims and demands against the same, and the fair cash value of the property, personal and real respectively, belonging to said company, which certificate shall be verified by the oath of the president of such company, and of the secretary thereof, if there be such an officer, and shall be filed the same as the certificate mentioned in section one of this act shall be filed, and no dividend shall be declared and paid unless the value of the property, claims and demands of such company, over and above the amount of the claims and demands against the same, as appears from such certificate, shall be as much as the capital stock of such company.

Dividends.

§ 14. If the directors of any such company, present and voting on the same, shall declare and pay any dividend when such company is insolvent, or any dividend the payment of which would render it insolvent, or which would diminish the amount of its capital stock, or shall declare and pay any dividend before the making, verifying and filing of the certificate mentioned in the last preceding section, or when the value of the property, claims and demands of such company shall not exceed the amount of claims and demands against the same to the amount in this section mentioned, they shall be jointly and severally liable for all the debts of such com-

Penalty for
declaring
dividends
when in-
solvent.

PART I

pany then existing, and for all claims and demands against such company then existing, and for all debts, claims and demands thereafter contracted and incurred while they shall respectively continue in office; provided, that if any of the directors so present and voting shall object to the declaring of such dividend, or to the payment of the same, and shall file a certificate of his or their objection, in writing, with the secretary of such company, if there be such an officer, and if not, then with the president thereof, and with the clerk of the county in which the principal office of such company shall be situated, the director or directors so objecting and so filing such objection shall be exempt from such liability.

Penalty for making false certificate.

§ 15. If any certificate made in pursuance of the provisions of this act shall be false in any material representation, all the officers who shall have signed the same shall be jointly and severally liable for all the debts and liabilities of the company contracted or incurred while they are stockholders or officers thereof.

Liability of executors, &c.

§ 16. No person holding stock in any such company as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as stockholder of such company, but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estate and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner and to the same extent as the testator or intestate, or the ward or person interested in such trust fund, would have been if he had been living and competent to act and hold the same stock in his own name. The whole liabilities of any such company, other than for advancements upon freights and tolls, shall not at any time exceed twice the amount of the capital stock paid in, nor twice the cash value of the property owned by such company, and the directors of such companies shall be severally and jointly individually liable for all liabilities of said companies exceeding the amount of capital stock paid in.

Vote of executors, &c.

§ 17. Every such executor, administrator, guardian or trustee shall represent the share of stock in his hands at all meetings of the company, and may vote accordingly as a stockholder; and every person who shall pledge his stock as aforesaid may, nevertheless, represent the same at all such meetings, and may vote accordingly as a stockholder.

Liability of stockholders.

§ 18. The stockholders of such company shall be jointly, severally and individually liable for all debts that may be due and owing to all the laborers and servants of such company for services performed for such company; but no action or proceeding shall be brought or maintained against any stockholder for any such debt until the same shall have been due and unpaid thirty days.

CH. XVIII.
Increase or
decrease of
stock.

§ 19. Any company which may be formed under this act may increase or diminish its capital stock by complying with the provisions of this act; but such increase shall not be to a sum more than the larger sum specified in the first section, and such diminution shall not be to a sum less than the smaller sum specified in said first section. Before such company shall be entitled to diminish the amount of its capital stock, if the amount of its debts and liabilities shall exceed the amount of capital stock to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of such capital stock.

§ 20. Whenever any such company shall desire to call a meeting of the stockholders for the purpose of increasing or diminishing the amount of its capital stock, it shall be the duty of the directors to publish a notice, signed by at least a majority of them, at least six successive weeks, as is prescribed in section three, previous to the day fixed upon for holding such meeting, specifying the object of such meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be proposed to increase or diminish the capital stock. A vote of at least two-thirds of all the shares of stock shall be necessary to an increase or diminution of the amount of the capital stock.

Notice of
intention to
alter capital.

§ 21. If at any time and place specified in the notice provided for in the last preceding section, stockholders shall appear in person or by proxy, in numbers representing not less than two-thirds of all the shares of stock of the company, they shall organize by choosing one of the directors chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present in person or by proxy; and if, on canvassing the votes, it shall appear that a sufficient number of votes have been given in favor of increasing or diminishing the amount of capital, a certificate of the proceeding showing a compliance with the provisions of this act, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed and verified by the affidavit of the chairman, and be countersigned by the secretary; and such certificate shall be acknowledged by the chairman, and filed as required by the first section of this act, and, when so filed, the capital stock of such company shall be increased or diminished to the amount specified in such certificate.

Meeting
and certificate
of increase.

§ 22. No such company shall combine with any other company formed under this act, for any purpose, or shall purchase, own, hold or be interested in any stock or property of any other such company, unless the same shall have been bona fide pledged, hypothecated or transferred to such company by way of security for or in satisfaction or part satisfaction of a debt or debts previously contracted in the course of the trans-

Two or
more com-
panies
may not
combine.

PART I.

List of stockholders.

Book open to inspection.

Annual report.

action of the business of such company, or unless the same shall be purchased by such company.

§ 23. It shall be the duty of the directors of every such company to cause a book to be kept by the treasurer or secretary thereof, containing the names of all persons, alphabetically arranged, who are or shall within six years have been stockholders of such company, and showing their places of residence, the number of shares of stock held by them respectively, and the time when they respectively became the owners of such shares, and the amount of stock actually paid in; which book shall, during the usual business hours of the day, on every day except Sunday, the fourth day of July, the twenty-fifth day of December and the first day of January, be open for the inspection of stockholders and creditors of the company and their personal representatives, at the principal office of such company; and any and every such stockholder, creditor or representative shall have a right to make extracts from such book, and no transfer of stock shall be valid for any purpose whatever except to render the person to whom it shall be transferred liable for the debts and liabilities of the company according to the provisions of this act, until it shall have been entered therein as required by this section, by an entry showing to and from whom transferred. Such book shall be presumptive evidence of the matters therein stated, in favor of the plaintiff, in any action or proceeding against such company or against any one or more stockholders. Every officer or agent of such company, whose duty it shall be to keep such book, who shall neglect any proper entry in such book, or shall refuse or neglect to exhibit the same, or allow the same to be inspected, or extracts to be taken therefrom as provided by this section, shall be deemed guilty of a misdemeanor, and the company shall forfeit and pay to the party injured a penalty of fifty dollars for every such neglect or refusal and all damages resulting therefrom; and every company that shall neglect to keep such book open for inspection, as aforesaid, shall forfeit to the people the sum of fifty dollars for every day it shall so neglect, to be sued for and recovered in the name of the people by the district attorney of the county in which the principal office for the transaction of the business of such company shall be located, and when so recovered the amount shall be paid into the treasury of such county for the use thereof.

§ 24. Every corporation formed under this act shall make an annual report to the state engineer and surveyor of the operations of the year ending December fifteenth, which report shall be verified by the oaths of the treasurer or president, and be filed in the office of the state engineer and surveyor by the fifteenth day of January in each year, and shall state

1. The amount of capital by charter.
2. The amount of stock subscribed.
3. The amount of stock paid in.

4. The amount of stock paid at the time of reporting.
5. The amount of floating debt of the company, and whether the same be secured by mortgage of their property.
6. The number of boats and the nature of the same owned by the company.
7. The waters upon which they do business.
8. The average number of men employed by the company during the year.
9. The gross receipts of the year for freight.
10. The gross receipts from other sources.
11. The dividends on stock, amount and rate per cent.
12. The amount paid for damage to or for loss of freight.
13. The amount paid for new moving stock, including all expenditures for the purchase of new outfits for the business of the company.
14. The amount charged to depreciation of their property used in the business of transportation.
15. The place of the principal office of the company.

§ 25. It shall be the duty of the state engineer and surveyor to arrange the information contained in such reports in a tabular form, and prepare the same, together with so much of the said reports as shall be necessary to exhibit the facts reported, in a single document for printing for the use of the Legislature, and report the same to the Legislature as early as the 15th day of February in each year. Report to
Legislature

§ 26. Every company created under this act shall possess the general powers and privileges, and be subject to the liabilities and restrictions contained in title third of chapter eighteen of the first part of the Revised Statutes. General
powers.

For additions to this act see Laws of 1858, ch. 10.

CHAP. 83.

AN ACT to amend an act entitled "An act for the incorporation of companies formed to navigate the lakes and rivers," passed April 15, 1854.

PASSED March 10, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

[Section 1 enacts a substitute for the original sec. 1, of the act of 1854.]

§ 2. Any company heretofore formed pursuant to the provisions of the act entitled "An act for the incorporation of companies formed to navigate the lakes and rivers," passed April fifteenth, eighteen hundred and fifty-four, may exercise the powers and enjoy the privileges conferred by the first section of this act. Companies
heretofore
formed.

CHAP. 10.

AN ACT to amend an act entitled "An act for the incorporation of companies formed to navigate the lakes and rivers," passed April fifteenth, eighteen hundred and fifty-four.

PASSED February 18, 1858.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Law amended.

§ 1. The act entitled "An act for the incorporation of companies formed to navigate the lakes and rivers," passed April fifteenth, eighteen hundred and fifty-four, is hereby amended by adding thereto the following sections:

Corporation, how dissolved.

§ 28. Whenever the directors of any such corporation, or a majority of them shall, for any reason, deem it beneficial to the interests of the stockholders that such corporation should be dissolved, they may apply by petition to any court of record of superior jurisdiction, or a judge or justice thereof sitting or residing in the county in which an office or place of business of such corporation is located, for a decree dissolving such corporation pursuant to the provisions of this act.

Petition.

§ 29. Every such petition shall contain a statement of the reasons why the petitioners desire a dissolution of such corporation, and it shall be sufficient to annex thereto:

Statements to accompany petition.

1. A general statement of the nature, kind and value of the property and assets of such corporation, so far as known to such petitioners.

2. The amount of capital stock of such corporation subscribed, and the amount paid thereon.

3. The names and places of residence of the stockholders and the number of shares held by them respectively, so far as the same are known to such petitioners.

4. A statement of all mortgages, judgments and other incumbrances upon the property of such corporation, so far as the same are known to such petitioners.

5. A statement of the amount of the indebtedness of such corporation, as nearly as such petitioners have been able to ascertain the same, and so far as they are able, the names and residences of such of the creditors as are non-residents of the county in which the petition shall be presented, and the amount due to them respectively.

Affidavit to petition.

§ 30. To every such petition there shall be annexed an affidavit of the petitioners or the president and secretary of the corporation, that the facts stated in such petition, and in the accounts, inventories and statements contained therein or annexed thereto, are true to the best of the knowledge, information and belief of the persons making such affidavit.

§ 31. Upon such petition, statement, accounts, inventories and affidavit being presented to such court, judge or justice, they shall direct the same to be filed and an order to be entered in the proper clerk's office, requiring all persons interested in such corporation to show cause, if any they have, before the same court, judge or justice, at a time and place to be specified in such order, why such corporation should not be dissolved, and notice that such application has been made, and of the time and place for hearing the same, shall be published for at least ten days before the day of hearing in one or more daily newspapers, as such court, judge or justice shall by such order direct. Such court, judge or justice shall also require such notice, of at least ten days, to be served by mail or otherwise on such of the creditors and stockholders of such corporation, so far as known.

CH. XVIII.
Petition,
&c., to be
filed and
order enter-
ed.

§ 32. At the time and place appointed in such order, such court, judge or justice shall proceed to consider such application, and shall hear the parties interested, and such proofs as may be presented, and may adjourn the hearing from time to time as shall be necessary. If it shall appear to such court, judge or justice, that for any reason, a dissolution of such corporation will be beneficial to the stockholders, and not injurious to its creditors, or to the public interests, an order or decree shall be made and entered appointing one or more receivers of its estate and effects.

Parties to
be heard by
court.

§ 33. Any of the directors or officers of such corporation, or any of its stockholders, may be appointed such receivers or receiver. Before entering upon the duties of their appointment, they shall give and perfect such security to the people of this state as such court, judge or justice shall direct, conditioned for the faithful performance of the duties of their appointment, and for the due accounting for all moneys which may come to their hands as such receivers.

Directors
may be re-
ceivers.

§ 34. Upon perfecting and filing such security as hereinbefore required, an order shall be made and entered dissolving such corporation, and it shall thereupon cease and be dissolved; and such receiver or receivers shall thereupon be vested with all the real and personal estate and property which such corporation was possessed of or entitled to at the time of filing such petition, or at any time thereafter, and shall be trustees of such estate and property for the benefit of the creditors and stockholders of such corporation.

Security
filed, &c.

§ 35. When there are sufficient funds on hand to pay off and discharge any one or more creditors, the said receiver may, with the assent of the other creditors, appropriate such funds exclusively to the payment of any debts, or with the consent of all the creditors, unprovided for by the funds on hand, may pay any debt in any of the assets or property of the said corporation. After any debts shall have been provided for or paid as aforesaid, the property and assets of the said corporation, with the consent of all the remaining cre-

Creditor
when to be
paid.

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ditors, may be sold upon such terms in all respects, either payable in stock or otherwise, as the said judge, court or justice may deem expedient for the interests of all parties interested therein.

Court to
issue orders
authorizing
sale.

§ 36. Such court, judge or justice may from time to time make such orders authorizing the sale by such receiver or receivers, at public auction or otherwise, upon such terms of payment, upon credit (not exceeding two years) or otherwise, and upon such security, as shall be deemed for the interest of the creditors and stockholders of such corporation, and may also from time to time make such orders and give such directions as may be expedient and proper in reference to the duties of such receiver or receivers, the closing up of the affairs of such corporation, the liquidation and payment of its debts and liabilities, and the distribution among the stockholders of any surplus which may remain of its property and assets.

Inability of
judge, &c.,
to attend.

§ 37. In case of the inability, from absence or any cause, of any judge or justice before whom any proceedings under this act are pending, to act therein, such proceedings may be continued before any other judge or justice of the same court, or of the supreme court in that judicial district.

Provisions
of Rev.
Stat. to
apply.

§ 38. The provisions of article third of title four, chapter eight, part third of the Revised Statutes, so far as they relate to the powers and duties of receivers, and the distribution and disposition of the property and estates of corporations, on the voluntary dissolution thereof, and are not inconsistent with the provisions of this act, shall apply to receivers appointed, and the property and estates of corporations dissolved under this act, but nothing in this section contained shall be taken or construed to limit or restrain the power hereinbefore conferred by this act on the court, judge or justice therein mentioned.

Ante, p. 821.

CHAP. 238.

AN ACT to amend the act entitled "An act for the incorporation of companies to navigate the lakes and rivers," passed April fifteenth, eighteen hundred and fifty-four.

PASSED April 15, 1861.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Act extend-
ed to Long
Island
Sound.

§ 1. All the provisions of the act entitled "An act for the incorporation of companies formed to navigate the lakes and rivers," passed April fifteenth, eighteen hundred and fifty-four, and the acts amendatory thereof, are hereby declared to be applicable and extended to companies hereafter formed to navigate Long Island Sound, and the adjacent harbor and the waters of the bays adjacent to the south shore of

Long Island, except that such companies may organize where the boats owned or employed by such companies are designed to be run, in whole or in part, on such waters, with a capital which shall not be less than twenty thousand dollars, nor more than two million dollars.

As amended by Laws of 1865, ch. 691. Post, vol. 6, p. 577.

§ 2. Nothing in this act shall be construed to authorize the formation of any ferry company to ply between the city of New York and any other point. Not to apply to ferries.

See Laws of 1865, ch. 691. Post, vol. 6, p. 577.

CHAP. 205.

AN ACT to amend the act entitled "An act for the incorporation of companies formed to navigate the lakes and rivers," passed April fifteenth, eighteen hundred and fifty-four.

PASSED April 12, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The act entitled "An act for the incorporation of companies formed to navigate the lakes and rivers," passed April fifteenth, eighteen hundred and fifty-four, is hereby amended by adding to the first section of said act the following sentences and paragraphs: The number of directors specified in the certificate of any company organized under the provisions of this act may be increased or diminished in the following manner: Whenever any such company shall desire to call a meeting of the stockholders for the purpose of increasing or diminishing the number of directors, it shall be the duty of the directors to publish a notice, subscribed by at least a majority of them, at least thirty successive days, as is prescribed in section three, previous to the day fixed upon for holding such meeting, specifying the object of such meeting, the time and place when and where such meeting shall be held, and the number to which it shall be proposed to increase or diminish such directors. A vote of at least two-thirds of all the shares of stock shall be necessary to an increase or diminution of the number of directors, and if at least two-thirds of the stockholders, in person, shall vote in favor of such increase or reduction, the number of directors shall be increased or diminished accordingly; and thereupon the number of directors to which the same shall have been increased or diminished, shall be elected as directors, in the manner provided for in this act. Manner of increasing and diminishing directors.

See ante, p. 821. Laws of 1865, ch. 691. Post, vol. 6, p. 576.

§ 2. The proceedings of such meeting, so far as the same may relate to the increase or reduction of the number of directors, shall be signed and certified to under oath by the chairman or president of such meeting and by the secretary thereof Proceedings to be signed and certified to under oath.

PART I.

and filed as provided for in the first section of the act hereby amended, and shall be recorded by the secretary of the company in the books of the company which contain the record of the proceedings. And the copy of such certificate so filed and certified by the county clerk in whose office the same shall be filed, in the manner provided for in the ninth section of the act hereby amended, shall be received in all courts and places as legal evidence of the matter therein stated.

CHAP. 43.

AN ACT to incorporate such persons as may associate for the purpose of procuring and erecting public libraries in this state

PASSED 1st of April, 1794.

Preamble.

WHEREAS a disposition for improvement in useful knowledge has manifested itself in various parts of this state, by associating for procuring and erecting social and public libraries: *And whereas* it is of the utmost importance to the public that the sources of information should be multiplied and institutions for that purpose encouraged and promoted:

On 40% being subscribed trustees may be elected.

§ 1. *Be it therefore enacted by the People of the State of New York, represented in Senate and Assembly,* That from and after the passing of this act, it shall and may be lawful for any number of persons, not less than twenty, in any county, town, village or neighborhood, who shall subscribe in the whole not less than forty pounds, and who shall by writing under their hands signify their consent and desire to associate themselves together for the purpose of procuring and erecting a public library, to assemble on the second Tuesday of the month in which they shall determine to meet at a place previously agreed on by a majority of the subscribers, to elect, nominate and appoint not less than five nor more than twelve of their number as trustees, to take charge of the monies belonging to the corporation thereby erected, and to transact all affairs relative to the same.

Election how to be held.

§ 2. *And be it further enacted,* That the said election to be held as aforesaid shall be conducted in the following manner, to wit: that whenever two-thirds of the subscribers shall assemble at the time and place previously agreed on and appointed, they shall proceed to elect a chairman by ballot from among themselves who shall preside at such election, receive the votes of the subscribers and be the officer to return the names of those who by plurality of voices shall be elected to serve as trustees for the said corporation; that the said returning officer shall immediately after said election, certify under his hand and seal the names of the persons elected to serve as trustees for said library, in which certificate the style

name or title of the said corporation (which shall for ever thereafter be the style, name or title by which the said corporation shall be distinguished and known,) shall be particularly mentioned and described, which said certificate being first duly proved or acknowledged before the chancellor of this state, or one of the judges of the supreme court, or any one of the judges of the court of common pleas of the county for the time being, in the same manner in which deeds or other writings have usually been proved or acknowledged, shall be forthwith recorded by the clerk of the county for the time being, in a book to be by him kept for that purpose, for which he shall receive a fee of eight shillings, and no more.

§ 3. *And be it further enacted*, That the persons so elected, returned and registered, shall be and hereby are declared to be trustees for said library, and that the said trustees from the time of their election as aforesaid, and their associates, and such other persons as shall from time to time become members of the corporation hereby authorized to be erected, shall be and hereby are ordained, constituted, appointed and declared to be one body corporate and politic, in fact and in name, by the name, style or title mentioned and described in the said certificate so to be recorded as aforesaid, and by that name shall have succession, and they and their successors shall and may forever thereafter by the same name be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended in all courts of common law or equity whatsoever, in all manner of actions, suits, causes, controversies, matters and things whatsoever, and that they and their successors shall have a common seal, and may break, alter and change the same at their discretion; and also, that the said trustees and their successors by the same name and title described in said certificates from the time of their election aforesaid shall be capable in law of purchasing, holding and conveying any estate real or personal for the use of the said corporation: *Provided*, Such real and personal estate so held shall not at any one time exceed the annual value of five hundred dollars, exclusive of the books and of the annual payments which shall be directed to be made by the members of the said corporation.

§ 4. *And for the better execution of the aforementioned purposes, Be it further enacted*, That for ever hereafter there shall not be less than five nor more than twelve trustees for every library so incorporated as aforesaid, who shall hold their offices for one year, and until others be elected in their places, and shall manage the business of the said corporation; and that there shall forever hereafter be one chairman of the said trustees, one treasurer and one librarian to be appointed in the manner hereinafter mentioned; and that it shall be lawful for the said trustees in their discretion, whenever they conceive

Trustees
and their
associates
to be a
body corpo-
rate.

Number of
trustees
limited, and
a chairman,
treasurer
and librari-
an to be ap-
pointed.

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it necessary, to appoint one and the same person treasurer and librarian.

Offices of trustees when to determine, and new trustees to be elected.

§ 5. And in order to keep up a perpetual succession of trustees, *Be it further enacted*, That the offices of the said first trustees shall determine in the following year on the second Tuesday in the same month in which they were chosen, and that on the first Tuesday in the same month in which the first election was held, in every year for ever thereafter, there shall be a general meeting of the members of the corporation at some convenient place to be from time to time ascertained and fixed by the by-laws of the said corporation, and that then and there by plurality of votes of such members as shall so meet, not less than five nor more than twelve trustees shall be elected by ballot to serve the ensuing year; that any person holding more than one right in said library shall be entitled to one vote for each right he or she shall hold in the same; that the trustees of the said library shall annually at their first meeting on or after the day in which their offices commence, appoint one of the said trustees their chairman; that in case of the death, removal, refusal or neglect to serve of the chairman for the time being, it shall be lawful for the trustees of the said library at any of their meetings to appoint another chairman instead of the one dying, removing, refusing or neglecting to serve as aforesaid, to remain in office till the expiration of the time during which his predecessor was entitled to serve; and when and as often as any vacancy shall happen by the death, removal, resignation or neglect to serve of any of the said trustees, it shall be lawful for the chairman of the said trustees, or on his neglect or refusal for any other two of the said trustees, to summon a meeting of the members of the said corporation at a place fixed by the by-laws of said corporation, for the purpose of electing another or other person or persons instead of such as shall have so died, removed, refused or neglected to serve as aforesaid, and that such person or persons so to be chosen trustee or trustees at such meeting as last aforesaid, shall respectively remain in office during such time as the person in whose stead such trustees shall be chosen would have done in case such death, removal or refusal had not happened, and no longer; and that the trustees of the said library shall, at every such annual meeting of the members of the said corporation, exhibit to the members a state of the said library, the minutes of the proceedings of the trustees during the year immediately preceding such meeting, with the treasurer's and librarian's accounts, stating the amount of receipts and expenditures during such year.

Chairman when to be appointed.

Vacancies how supplied.

Trustees annually to exhibit a state of the library.

To have stated meetings.

§ 6. *And be it further enacted*, That the said trustees shall have stated meetings once in every quarter in every year, at such time and place as shall from time to time be appointed for that purpose, that the chairman or any two trustees of the said library for the time being shall and may from time to time, as occasion may require, summon and call together, at

such place as shall from time to time be appointed by the by-laws of the said corporation, the trustees of the said library, giving them at least two days previous notice of such meeting; that the chairman and a majority or more of the said trustees shall form a board of trustees, and that in the absence of the chairman, the trustees so met shall choose another to serve on that occasion, that the chairman shall have a casting vote and no other, that the chairman and a majority of the trustees so met shall have full power and authority to adjourn from day to day, or for such other time as the business of the said corporation may require, and from time to time to appoint, and at their pleasure to displace a treasurer and librarian of the said library, and to appoint other or others in their stead and place, to ascertain the compensation to be allowed the treasurer or librarian or either of them for their service in their stations respectively, and to regulate and appoint to them the said treasurer and librarian or either of them their respective powers, trusts and duties; to direct the application of monies belonging to the said corporation to the purchase of such books and apparatus as they shall think proper, to the providing of a room or house for the safe keeping of the books of the said library, and to transact, do, manage and perform, in the name of the said corporation, all and every act and acts, thing and things whatsoever which shall be necessary to be done, and which the trustees of said library are by this law authorized to do; and to make, frame, constitute, establish and ordain, from time to time, and at all times hereafter, such laws, constitutions, ordinances and regulations for the government of the officers, members and servants of said corporation, for regulating the terms upon which the books of the said library shall be lent out both to the members of the said corporation and others, for fixing and ascertaining the times and places of the quarterly meetings of the said trustees, for altering, fixing and ascertaining the places of meeting of the members of the said corporation, for the election of trustees, for regulating the management and disposition of the books of the said library, and the moneys, funds and effects belonging to the said corporation, the mode of transferring rights in the said library from one person to another, and all other the business and affairs whatever of the said corporation, as they or the major part of them so legally met shall judge best for the general good of said corporation, and for the more effectual promoting, increasing and preserving the said library, and the same or any of them to alter, amend or repeal, from time to time, as they or a major part of them so met shall think proper: *Provided*, Such laws, constitutions, regulations or ordinances be not repugnant to the laws of this state.

Their powers.

§ 7. *And be it further enacted*, That it shall and may be lawful for each and every of the members for the time being of the said corporation, his or her executors, administrators and assigns, to give, sell, alien assign, devise and dispose of

Shares assignable.

PART I.

their respective rights in the said library, and that their respective assigns shall be members of the said corporation, and shall be entitled to all and every the same rights and privileges in said library and said corporation as the original members are entitled to by this act: *Provided*, That a part of a right in said library shall not entitle the proprietor or owner thereof to any privilege whatsoever in said library or corporation.

New mem-
bers how
admitted.

§ 8. *And be it further enacted*, That it shall and may be lawful at such meeting of a majority or more of the said trustees of the library for the time being, to make any by-laws, constitutions, or ordinances of the said corporation, to admit under the common seal of the said corporation such and so many persons, members of the said corporation, as they shall think beneficial to the said library, which members so admitted shall be entitled to have, hold, and enjoy all and every the same rights and privileges as the original members are entitled to by this act.

Annual pay-
ment to be
made by a
certain day.

§ 9. *And be it further enacted*, That each and every member of the said corporation for the time being, shall, on or before the first Tuesday in the month fixed for the election of trustees, annually pay to the treasurer of said library, for the use of the said corporation, the sum or sums which shall be fixed by the by-laws of said corporation, and that whenever any of the members of the said corporation shall neglect to pay the said annual sum, or any other sum which of right shall become due to the corporation, for the space of forty days next after the day on which the same ought to have been paid, that then the person or persons from whom the same shall be due, shall be precluded from exercising any of the privileges to which he became entitled by virtue of his being or becoming a member of the said corporation, until such sums shall be fully satisfied; and if such sums shall not be paid within two years after any such sums shall become due as aforesaid, that then and after the expiration of two years from the time such payment shall become due, that the person or persons from whom the same shall become due, shall thereupon forfeit and be utterly excluded from all his, her or their rights and privileges in the said library and corporation.

Forfeitures
for neglect.

Election of
trustees
not made
pursuant to
this act,
may be
held at
another
day.

§ 10. *And be it further enacted*, That in case it should happen that an election of trustees should not be made on any day when pursuant to this act it ought to have been made, the said corporation shall not for that cause be deemed to be dissolved, but that it shall and may be lawful on any other day to hold and make an election of trustees, in such manner as shall have been regulated by the laws and ordinances of the said corporation: *Provided always*, That nothing in this act shall be so construed as to authorize any person or persons whatsoever under colour or by virtue of any incorporation authorized by this act, to do or transact any business, matter

Proviso.

or thing, save what appertains to a library, according to the true intent and meaning of this act.

CHAP. 19.

AN ACT to amend an act, entitled "An act to incorporate such persons as may associate for the purpose of procuring and erecting public libraries in this state," passed April 1st, 1796.

PASSED March 3d, 1825.

§ 1. *Be it enacted by the People of the State of New York, represented in Senate and Assembly,* That it shall be lawful for the trustees of all library companies, formed by virtue of the act above entitled, to have stated meetings semi-annually or quarterly, at such time and place as shall from time to time be appointed by a majority of such trustees, for such purpose, anything in the sixth section of the act hereby amended to the contrary thereof in any wise notwithstanding, and at such meetings to do and perform all duties which, in and by the said act hereby amended, they are empowered and authorized to do and perform.

Stated meetings.

CHAP. 395.

AN ACT for the incorporation of library companies.

PASSED June 17, 1853.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any number of persons not less than three, residing in this state, may become incorporated as a joint stock company for the purpose of founding, continuing and perpetuating a library of one or the other of the following descriptions, in the manner hereinafter mentioned.

Authority to form companies.

§ 2. A library company, formed by virtue of this act, may be either a circulating library company or a reference library company. The books, manuscripts, maps, prints, coins, medals, paintings, or other article of literary property or work of art of the first mentioned company, may either in whole or in part, as the trustees shall from time to time determine, be taken for use from the library rooms or buildings of the corporation. But no book, manuscript, map, print, coin, medal, painting, article of literary property, or work of art, belonging to the second mentioned company, shall be taken, kept or used, out of the library rooms or buildings of the company, under any permission or pretence whatever, except for its repair or preservation, or for the purpose of being deposited in

Description of library.

PART L

Meeting to
form com-
pany.

some other building of the company, should they change from one to another location, nor shall it be sold or exchanged, unless the company have an exact duplicate thereof.

§ 3. Such persons as are mentioned in the first section of this act, when desirous to form a library company under this act, may meet and appoint a chairman and secretary, by a vote of a majority of those present, and proceed to form one or the other of the descriptions of company specified in the second section of this act, by determining :

1. Upon the description of company they will form.
2. Upon a corporate name for such company, which shall include the word circulating or reference, as the description of the company may be.
3. Upon the number of trustees to manage the affairs of the corporation, not less than three nor more than nine.
4. Upon the city or town of their county in which the library shall be located.
5. Upon the trustees for the first year.
6. Upon the day of the annual election thereafter, and the day the new trustees that may be elected shall enter upon office.
7. Upon the amount to be paid for a share of the stock to constitute a member, how much thereof shall be paid down, and the annual sum to be required by the company on each share of said stock.

Certificate
of forma-
tion of com-
pany.

§ 4. The chairman and secretary of the meeting shall within three days thereafter, make a written certificate, and sign their names thereto, and acknowledge the same before an officer authorized to take the proof and acknowledgment of conveyances in the county where such library is to be located, which certificate shall state the time and place of such meeting, the names of those who attended the same and concurred in the proceedings, and the matters specified in the last preceding section determined upon by such meeting ; and it shall be the duty of the said chairman and secretary to cause such certificate to be recorded in the clerk's office of said county, in a book appropriated to the recording of certificates of incorporation : and such original certificate acknowledged as aforesaid, or the record thereof, or an exemplified or certified copy of such record, shall be evidence of any matter above authorized to be inserted therein, and which it shall contain.

Recording
certificate,
company to
be legally
incorpora-
ted.

§ 5. Upon such certificate being so recorded, the company mentioned therein shall be deemed to be legally incorporated, and shall have and possess the general powers and privileges of corporations, and be subject to the liabilities and restrictions contained in the third title of the eighteenth chapter of the first part of the Revised Statutes, so far as the same are consistent with this act. Ante, vol. 1, p. 556.

Trustees to
manage
business of
company.

§ 6. The business of the company shall be managed by its trustees, a majority of whom shall be a quorum ; they shall

be elected annually by the shareholders, and each of them, after the first year, must be a shareholder; they shall annually appoint a president and vice-president from among their own body, and shall also appoint a treasurer, a secretary and librarian, who shall hold their offices during the pleasure of the trustees; and the treasurer and librarian may be required to give security for the faithful performance of the duties of their offices, respectively, and for the payment and delivery over to their successors, or other person or persons that may be directed by the trustees to receive the same, of the money and property intrusted to their care or custody, respectively; and the said trustees shall have power to admit members of the company who may apply for admission and become shareholders; to make calls for payment of the sums required to pay for the shares subscribed in such installments as they think proper; to establish other offices than those before mentioned; to appoint the officers thereto; and also all agents and servants deemed by them expedient for the company, but such offices and appointments shall only be during the pleasure of the trustees; to make by-laws and pass resolutions, and the same from time to time to repeal, renew or alter, for regulating the election of trustees and officers, for transferring shares of the stock of said company, for prescribing the evidence, the transfer thereof, and also the duties of the officers, agents and servants of the company, the security they shall give and the compensation, if any, for the care, use, increase and preservation of the library and other property of the company; also, to procure, by purchase or donation, a proper lot and building for said library, with proper furniture and conveniences for the same and its use, and for the residence of its librarian or keeper thereof; also, to purchase, receive by gift or on deposit for use, any books, manuscripts, maps, prints, coins, medals, paintings and other literary articles and works of art for the library of the company, and generally to do any act necessary for the accomplishment of the objects of the corporation, not contrary to this act or to the constitution or laws of this state or of the United States.

§ 7. Every person who shall be admitted a member of the corporation, with the right of voting, shall be the owner of at least one share of the stock thereof, for which he shall have paid the company all such sums of money as shall have been required to be paid thereon; and each member shall be entitled to one vote on every such share held by him, and standing in his name on the books of the company, and the shares shall be considered personal property, and pass and be transferable as such, subject, however, to the annual payments thereon, and to forfeiture for non-payment of calls or of annual payments, and to the provisions for regulating their transfer; and a certificate shall be granted to each shareholder for his shares, and no transfer shall be deemed

Member-
ship.

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valid, as between the shareholder and the company, until it is registered in some proper book to be provided by the company, which book shall be open to the inspector of any shareholder, in the library building, at all reasonable business hours in the day time, and shall be the evidence of the right to vote in case of dispute.

Shares.

§ 8. Each share in such library company shall be charged with the payment of such annual sum as may be agreed on at the formation of the company and mentioned in said certificate; and such annual payment may be increased by a majority of the votes of the persons holding shares, at a meeting of the trustees, holders, to be held at the library rooms, on notice of the trustees, specifying the proposed increase, published once a week, for four weeks, in at least one of the newspapers published in the county where the library is located, and posted, for a like length of time, in the library room; but such increase shall not, at any one time, be made exceeding fifty per cent more than the last preceding annual charge, nor exceed, in all, twenty-five dollars per year. Half of the annual charge shall be payable on the first Monday of May, and half on the first Monday of November, in each year, such payments to become due on the first of the said days which shall occur after the share shall have been created, or such annual payment have been increased; and the said semi-annual sums, when due, may be collected by suit, if deemed expedient, and if payment of any of them shall be neglected to be made (whether sued for or not) for five years the share of which it may be chargeable may be declared by the trustees at any time thereafter, and while any part of it remains unpaid, to be forfeited, and shall thenceforth cease to be considered a share in the company, or to give any right or interest in said company to the holder or claimant thereof. Shares of the company may also be declared forfeited by the trustees for non-payment of the calls of any installments at the time specified in such call, and with the like effect as in this section mentioned on forfeiture, for non-payment of semi-annual charges where such forfeiture shall be declared.

Library
how to be
used.

§ 9. The library of the company shall be open daily (Sundays and such holidays as the trustees shall, in their by-laws specify, excepted), under the regulations of the trustees, for use by the shareholders, without requiring from them any other than the semi-annual payments aforesaid on their respective shares, and the trustees may prescribe the terms on which persons not shareholders may inspect, make researches in, and use said library, but subject, however, in case of a reference library, to the restriction against and punishment for the removal of any book, manuscript, map, print, coin, medal, painting or other literary article or work of art belonging to said library company from their library building.

Damages
for de-

§ 10. Any person who shall fail to return, at the expiration

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destroying
or injuring
property of
library.

of the time prescribed for its use, destroy or injure any article or property of any library company incorporated under this act, shall be liable to damages to the full value of such article, and also to such further amount of damages as any court in which a suit may be prosecuted therefor may award, to be determined however by jury, in case the action is tried by jury; and in case any book, manuscript, map, print, coin, medal, painting or other literary article or work of art shall be removed from the library building of any reference library company, except for its preservation or repair, or for the purpose of being deposited in some other building of the company, should they change from one to another location, the person so removing or assisting in so removing the same, and any trustee or officer of the company consenting to the removal thereof, or any person in possession thereof, after such removal, refusing to permit the same to be restored to such last mentioned library, shall be deemed guilty of a misdemeanor, and on being indicted therefor, no nolle prosequi, discontinuance or relinquishment of the indictment or prosecution shall be allowed, except upon the terms of paying all the costs to the people, and a certificate of satisfaction from the company under their corporate seal, and the signature of the majority of the trustees for the time being; and the book or article so removed shall still be the property of the company, and damages, as aforesaid in this section, may be recovered with costs in any court having cognizance of the suit; nor shall anything herein contained affect any prosecution for a felonious taking of the property of such company.

§ 11. No reference library company shall be changed into a company of any other description by any act of the trustees or shareholders, except by the unanimous consent of such shareholders for the time being; and in case the Legislature shall, without such unanimous consent, pass any law whereby the books, manuscripts, maps, prints, coins or medals, paintings, or other article of literary property, or work of art of such company, or any of them, shall be permitted to be removed from them, or used elsewhere than in its library rooms, every dissenting shareholder shall first be paid the full value of his shares in said company, to be ascertained by appraisers appointed as the Legislature shall direct, and sworn to appraise all the property of such company at its full value; and any person who may have made any donation to said company, if living or his personal representative, if the same be dead, shall be entitled first to receive back the article and articles given, if, when the act making the change is passed, it or any of them is or are possessed by the company; or if the donation was cash or real estate, to receive repayment of the cash and a reconveyance of the real estate or of the property for which such real estate may have been sold or exchanged.

Reference
library.

§ 12. Any company incorporated under this act may take and hold real and personal property by gift, purchase, grant

Real and
personal
estate.

PART I.

or devise; but any real estate, except such lot or lots as may be necessary or reasonably convenient for the library buildings and a residence for the librarian, shall be sold and disposed of by the trustees in one year after the title and possession thereof shall be vested in the company (the receipt of the rent thereof to be deemed as actual possession); and it shall not be lawful for the trustees to retain, uninvested or unappropriated to the legitimate objects of the company under this act, more than two thousand dollars for a longer period than three months at any one time.

Debts not
to be in-
curred.

§ 13. No library company incorporated under this act shall incur any debt, except such taxes and assessments as shall be imposed upon its property according to law; and the trustees shall be liable, jointly and severally, for any debt they shall have contracted for the company while they were trustees, and may retain and apply sufficient of the cash, bonds, notes, or other securities of the company, to discharge them from such liability, so far as it may have been incurred for the legitimate purposes of the company under this act. But no board of trustees shall lawfully make any contract on account of the company, not to be performed during the year for which the board is chosen.

Election.

§ 14. If any election shall fail to be held on the day mentioned in the said certificate for incorporation, it may be held on any other day determined on by the trustees, on a notice of not less than six days, signed by the president or a majority of the trustees, and posted during that time in the library room; and the trustees chosen at such special election shall hold their offices as if they had been chosen on the annual election day. Any vacancy in the office of trustee, occurring between the days of annual election, may be supplied by a majority of the trustees remaining in office, at any meeting duly held by them, and the person so chosen shall hold as if chosen at the day for the annual election next preceding such choice.

Vacancies.

CHAP. 168.

AN ACT to authorize the formation of companies for the recovery of stolen horses, cattle and sheep, and the apprehension of the thieves, and to insure against the loss of the same by being stolen.

PASSED April 7, 1859.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Companies
may be
formed.

§ 1. It shall be lawful for any number of persons, not less than twenty, residing in this state, to form themselves into an incorporated company for the purpose of mutual insurance against loss or damage, by having had stolen any horse or

horses, cattle or sheep, or any loss or expense incurred in recovering such animals as may have been so stolen, or in the apprehension of the thief or thieves, which corporation shall possess the usual powers and be subject to the usual duties of corporations, as defined in title three, chapter eighteen, part first of Revised Statutes, and the corporate name whereof shall embrace the name of the town in which the business office of said company shall be located.

§ 2. Every company so formed, shall choose of their number not less than five nor more than nine directors, to manage the affairs of such company, who shall hold their office for one year, and until others are elected, and such directors shall choose one of their number president, and one as secretary. Directors.

§ 3. The directors of such company shall file their articles of association, together with a copy of their by-laws and the names of the officers of such company, in the town clerk's office of the town in which the office of such company is located, and which town shall be the residence of the secretary of said company, and said secretary shall keep a record of their proceedings in a book to be kept for that purpose, together with the names of the persons insured, and the amount each person is insured, which record shall be open for the inspection of all the members of such company from nine o'clock, A. M., to four o'clock, P. M., of each secular day, the established holidays excepted. Articles of association to be filed.

§ 4. The company may issue policies signed by their president and secretary, agreeing in the name of such company to pay all damages which may be sustained from the stealing of such animals, and the recovery thereof, and the apprehension of the thief or thieves, for a term not exceeding five years, by the holders of such policies, not exceeding the sum named in said policy, and which shall not exceed the sum of five hundred dollars. Policies.

§ 5. Every person so insured shall give his undertaking to said company, bearing even date with said policy so issued to him, binding himself, his heirs and assigns, to pay his pro rata share to the company, of all losses by the stealing and the recovery of such animals, and the apprehension of the thief or thieves, which may be sustained by any member thereof, and every such undertaking shall, within five days after the execution thereof, be filed by the secretary of such company, in the town clerk's office of the town in which the office of said company is located, and shall remain permanently on file in such office, except when required to be produced in evidence in court, and when so used shall be immediately returned to said office of said town clerk. He shall also, at the time of affecting such insurance, pay such per centage in cash, and such reasonable sum for a policy, as may be required by the rules or by-laws of said company. Undertaking to be given.

§ 6. Every member of such company who may sustain damages or loss by the stealing of such animals, the expense Duty in case of loss or damages.

PART I.

of the recovery thereof, and necessary expense of the apprehension of the thief therein, shall immediately notify the president or secretary of said company, who shall forthwith convene the directors, whose duty it shall be when so convened, to appoint a committee of not less than three nor more than five members of such company to ascertain the amount of such loss or damage; and in case of the inability of the parties to agree upon the amount of such loss or damage, the claimant may appeal to the county judge of the county, whose duty it shall be to appoint, by a writing signed by him; three disinterested persons as a committee of reference, who shall have full authority to examine witnesses and to determine all matters of dispute, who shall make their award in writing to the president or secretary of such company within twenty days after the hearing, which award so made shall be final. The said committee of reference shall each be allowed two dollars per day for each day's service so rendered, and which shall be paid by the claimant, unless the said award of said committee shall exceed the sum offered to be paid by the company in liquidation of such loss or damage, in which case said expenses shall be paid by the company.

Assessment

§ 7. Whenever the amount of any loss or damages shall have been ascertained which exceeds in amount the cash funds of the company then on hand, the president shall convene the directors of said company, who shall make an assessment upon each member of the company in proportion to the amount insured by him, sufficient to pay such loss and damages, and a sum not exceeding ten per cent in addition thereto to be determined by said directors.

Duty of secretary.

§ 8. It shall be the duty of the secretary, whenever such assessment shall have been completed, to immediately notify every person composing such company, by letter sent to him post paid at his usual post office address, of the amount of such loss and damages, and of the sum due from him as his share thereof, and of the time when and to whom payment is to be made, but such time shall not be less than thirty nor more than ninety days from the date of such notice, and every such person so designated to receive such money, may demand and receive two per cent in addition to the amount due on such assessment, for his fees in receiving and paying over such money.

Liability of members.

§ 9. Actions at law may be brought against any member of such company who shall neglect or refuse to pay any such assessment made upon him or them, under the provisions of this act, and the directors of any such company so formed, who shall wilfully refuse or neglect to perform the duties imposed upon them by this act, shall be liable in their individual capacity, to the person or persons sustaining such loss or damage.

Election of directors.

§ 10. The directors of such company shall be chosen by ballot at the annual meeting of the members of the company.

which shall be held on the second Tuesday of January in each year, at the business office of said company, and every person insured shall have one vote, but no person shall be allowed to vote by proxy at such elections.

§ 11. It shall be the duty of the secretary of every such company to prepare a statement showing the condition of such company on the day preceding their annual meeting, verified by the affidavit of said secretary attached thereto; which statement shall contain the number of policies issued, and all other matters pertaining to the interests of such company; which statement shall be filed in the office of the clerk of the town in which such company is located, on or before the twenty-fifth day of January in each year, and which statement shall also be read to the members of such company when assembled at their annual meeting.

Secretary to
prepare
statement

§ 12. Any member of such company may withdraw therefrom at any time, by giving notice in writing to the president or secretary of such company twenty days prior to such withdrawal, and paying his share of all claims then existing against said company; and the directors or a majority thereof shall have power to annul any policy, by giving twenty days' notice, in writing, of their intention to do so, to the holder of such policy, and when so annulled said policy shall be void, and the undertaking given on issuing said policy shall also be void.

Withdrawal
of mem-
bers.

§ 13. The company so formed may adopt such by-laws for its regulation as are not inconsistent with the provisions of this act, and may therein prescribe the compensation of its officers.

By-laws.

§ 14. No company formed under this act shall continue for a longer period than thirty years.

Continu-
ance.

CHAP. 438.

AN ACT to provide for the formation of societies for the prevention of horse stealing.

PASSED April 22, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

§ 1. Any ten or more persons of full age, citizens of this state and of the United States, who shall desire to associate themselves into a society for the prevention of horse stealing, by the employment of patrolmen, riders and messengers, and the use of all other lawful means to prevent the same, may make, sign and acknowledge before any officer authorized to take the acknowledgment of deeds in this state and file the same in the office of the Secretary of State, and a duplicate thereof in the office of the clerk of the county in which the

Formation
of society.

PART I.

business of said society is to be conducted, a certificate in writing in which shall be stated the name or title by which such society shall be known in law, the particular business and objects of such society, the number of trustees, directors or managers to manage the same, and the names of the trustees, directors or managers of such society for the first year of its existence; but such certificate shall not be filed unless by the written consent and approbation of one of the justices of the supreme court of the district in which the place of business of such company or association shall be located, to be endorsed on such certificate.

When a
body corpo-
rate.

May sue
and be sued
&c.

§ 2. Upon filing a certificate as aforesaid the persons who shall have signed and acknowledged such certificate and their associates and successors, shall thereupon by virtue of this act be a body politic and corporate by the name stated in such certificate, and by that name they and their successors shall and may have succession and shall be persons in law capable of suing and being sued, and they and their successors may have and use a common seal. And they and their successors by their corporate name shall in law be capable of taking, receiving, purchasing and holding for the purpose of their incorporation and for no other purpose, personal estate to an amount not to exceed one thousand dollars; to make by-laws for the management of its affairs not inconsistent with the constitution and laws of this state or of the United States; to elect and appoint the officers and agents of such society for the management of its business and to allow them a suitable compensation.

Revised
Stat. appli-
ed.

§ 3. Every corporation formed under this act shall possess the powers and be subject to the provisions and restrictions contained in the third title of the eighteenth chapter of the first part of the Revised Statutes.

Ante, vol. 1, p. 556.

Repeal.

§ 4. The legislature may at any time amend, annul or repeal any incorporation formed or created under this act.

CHAP. 201.

AN ACT to preserve certain waters from the effects of Gas-Tar and refuse of Gas-Houses and Factories.

PASSED May 13, 1845.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Offenders
guilty of a
misdemeanor.

§ 1. It shall not be lawful for the manufacturers of gas, nor for any other person, to throw or deposit any gas-tar or refuse of the gas-houses or factories in the counties of New York, Queens or Kings, into any public waters, rivers or stream, nor into any sewer or stream running or emptying into any such public waters, river or stream; and whoever

shall offend against the provisions of this act shall be deemed guilty of a misdemeanor.

CHAP. 37.

AN ACT to authorize the formation of Gas Light Companies.

PASSED February 16, 1848.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Any three or more persons, who may desire to form a company, for the purpose of manufacturing and supplying gas for lighting the streets, and public and private buildings of any city, village or town in this state, may make, sign and acknowledge, before some officer competent to take the acknowledgment of deeds, and file in the office of the clerk of the county, in which the business of the company shall be carried on, and a duplicate thereof, in the office of the secretary of state, a certificate in writing, in which shall be stated the corporate name of the said company, and the objects for which the company shall be formed, the amount of the capital stock of the said company, the term of its existence, not to exceed fifty years, the number of shares of which the said stock shall consist, the number of directors and their names, who shall manage the concerns of said company for the first year, and the names of the town and county in which the operations of the said company are to be carried on.

Companies
how to be
formed.

21 N. Y., 517; 30 B., 36.

§ 2. When the certificate shall have been filed as aforesaid, the persons who shall have signed and acknowledged the same, and their successors, shall be a body politic and corporate, in fact and in name, by the name stated in such certificate; and by that name have succession, and shall be capable of suing and being sued in any court of law or equity in this state; and they and their successors may have a common seal, and may make and alter the same at pleasure; and they shall, by their corporate name, be capable in law of purchasing, holding and conveying any real and personal estate whatever, which may be necessary to enable the said company to carry on the operations named in such certificate, but shall not mortgage the same or give any lien thereon.

Their powers as a
body corporate.

§ 3. The stock, property and concerns of such company shall be managed by not less than three nor more than nine directors, who shall respectively be stockholders in such company, and citizens of the United States, and a majority of whom shall be residents of this state, and who shall, except the first year, be annually elected by the stockholders, at such time and place as shall be directed by the by-laws of the company; and public notice of the time and place of holding

Affairs how
managed.

PART I

such election shall be published not less than ten days previous thereto, in a newspaper printed in the place where the operations of the said company shall be carried on; and the election shall be made by such of the stockholders as shall attend for that purpose, either in person or by proxy. All elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in the said company, and the persons receiving the greatest number of votes shall be directors; and when any vacancy shall happen among the directors, by death, resignation or otherwise, it shall be filled for the remainder of the year in such manner as may be provided for by the by-laws of the said company.

Provision
in case of
neglect to
elect direc-
tors.

§ 4. In case it shall happen at any time, that an election of directors shall not be made on the day designated by the by-laws of said company, when it ought to have been made, the company for that reason shall not be dissolved, but it shall be lawful on any other day to hold an election for directors, in such manner as shall be provided for by the said by-laws, and all acts of directors shall be valid and binding as against such company, until their successors shall be elected.

President
and subor-
dinate off-
cers.

§ 5. There shall be a president of the company, who shall be designated from the number of the directors, and also such subordinate officers as the company by its by-laws may designate, who may be elected or appointed and required to give such security for the faithful performance of the duties of their office as the company by its by-laws may require.

Calls may
be made on
stockhold-
ers.

§ 6. It shall be lawful for the directors to call in and demand from the stockholders respectively, all such sums of money by them subscribed, at such times and in such payments or installments as the directors shall deem proper, under the penalty of forfeiting the shares of stock subscribed for, and all previous payments made thereon, if payment shall not be made by the stockholders within sixty days after a personal demand, or notice requiring such payment shall have been published for three successive weeks in any newspaper in the place where the business of the company shall be carried on as aforesaid.

By-laws
may be
made.

§ 7. The directors of such company shall have power to make such prudential by-laws as they shall deem proper for the management and disposition of the stock and business affairs of such company, not inconsistent with the laws of this state, and prescribing the duties of officers, artificers, and servants that may be employed; for the appointment of all officers, and for carrying on the business aforesaid.

Stock
transfera-
ble.

§ 8. The stock of such company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the by-laws of the company.

Copy of cer-
tificate evi-
dence.

§ 9. A copy of any certificate of incorporation, filed in pursuance of this act, certified by the county clerk or his deputy, to be a true copy, and of the whole of such certificate, shall

be received in all courts and places, as presumptive legal evidence of the incorporation of such company, if the same shall comply with the provisions of this act.

§ 10. All the stockholders incorporated under this act, shall be severally individually liable to the creditors of the company in which they are stockholders, to an amount equal to the amount of stock held by them respectively, for all debts and contracts made by such company, until the whole amount of capital stock fixed and limited by such company, shall have been paid in, and a certificate thereof shall have been made and recorded as prescribed in the following section, and the capital stock so fixed and limited shall all be paid in, one-half thereof within one year, and the other half within two years from the incorporation of said company, or such corporation shall be dissolved.

Liability of stockholders.

§ 11. The President and a majority of the directors, within thirty days after the payment of the last installment of the capital stock so fixed and limited by the company, shall make a certificate stating the amount of the capital so fixed and paid in; which certificate shall be signed and sworn to by the president and a majority of the directors; and they shall, within the said thirty days file the same in the office of the county clerk of the county wherein the business of the said company is carried on.

Certificate of payment of stock to be filed.

§ 12. Every such company shall make a report annually, within twenty days from the first day of January, which shall be published in some newspaper published in the city, village or town where the business of said company is carried on, of the amount of capital, and of the proportion actually paid in, and the amount of its existing debts, which report shall be signed by the president and a majority of the directors, and verified by the oath of the president and secretary of the company; and if any of said companies shall fail so to do, all the directors of the company failing so to do shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be contracted before such report shall be made.

Companies to make an annual report.

§ 13. If the directors of any such company shall declare and pay any dividend when the company is insolvent, or any dividend the payment of which would render it insolvent, or which would reduce the amount of their capital, they shall be jointly and severally liable for all the debts of the company then existing, and for all that shall be thereafter contracted, so long as they shall respectively continue in office: *Provided*, That if any of the directors shall at any time before the time fixed for the payment of such dividend object thereto, and shall, within thirty days thereafter file a certificate of their objection, in writing, with the clerk of the company and with the clerk of the county, they shall be exempt from the said liability.

Provision respecting dividends.

§ 14. If any certificate, report made, or public notice given,

Provision respecting

PART I.
false re-
ports or
certificates.

by the officers of any such company, in pursuance of the provisions of this act, shall be false in any material representation, all the officers who shall have signed the same knowing it to be false, shall be jointly and severally liable for all the debts of the company, contracted while they are stockholders or officers thereof,

Liability
for debts.

§ 15. The stockholders of any company organized under the provisions of this act, shall be jointly and severally individually liable for all debts that may be due and owing to all their laborers, servants and apprentices, for services performed for such corporation.

Right to
alter,
amend or
repeal.

§ 16. The legislature may at any time alter, amend or repeal this act, or may annul or repeal any incorporation formed or created under this act; but such amendment or repeal shall not, nor shall the dissolution of any such company take away or impair any remedy given against such corporation, its stockholders or officers, for any liability which shall have been previously incurred.

Provision
respecting
debts not
payable
within one
year.

§ 17. No stockholder shall be personally liable for the payment of any debt contracted by any company formed under this act, which is not to be paid within one year from the time the debt is contracted, nor unless a suit for the collection of such debt shall be brought against such company within one year after the debt shall become due; and no suit shall be brought against any stockholder who shall cease to be a stockholder in any such company, for any debt so contracted, unless the same shall be commenced within two years from the time he shall have ceased to be a stockholder in such company, nor until an execution against the company shall have been returned unsatisfied in whole or in part.

Power to
manufacture
and
sell gas.

§ 18. Any corporation formed under this act shall have full power to manufacture and sell, and to furnish such quantities of gas as may be required in the city, town or village where the same shall be located, for lighting the streets, and public and private buildings, or for other purposes; and such corporation shall have power to lay conductors for conducting gas through the streets, lanes, alleys and squares, in such city, village or town, with the consent of the municipal authorities of said city, village or town and under such reasonable regulations as they may prescribe; and the said municipal authorities shall have power to exempt any corporation formed under the provisions of this act, from taxation on their personal property, for a period not exceeding three years from the organization of said corporation.

Penalty for
injuring
works.

§ 19. Any person wilfully injuring, or causing to be injured any property of any corporation created under this act, shall forfeit and pay to the said corporation treble the amount of damages sustained by such injury, to be recovered in any court having cognizance thereof.

Capital
stock may
be increased.

§ 20. Any company which may be formed under this act may increase or diminish its capital stock, by complying with

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ed or di-
minished.

the provisions of this act, to any amount which may be deemed sufficient and proper for the purposes of the corporation. But before any corporation shall be entitled to diminish the amount of its capital stock, if the amount of debts and liabilities shall exceed the amount of capital to which it is proposed to be reduced, such amount of debts and liabilities shall be satisfied and reduced so as not to exceed such diminished amount of capital; and any existing company heretofore formed under any special act, may come under and avail itself of the privileges and provisions of this act, by complying with the following provisions, and thereupon such company, its officers and stockholders, shall be subject to all the restrictions, duties and liabilities of this act.

§ 21. Whenever any company shall desire to call a meeting of the stockholders, for the purpose of availing itself of the privileges and provisions of this act, or for increasing or diminishing the amount of its capital stock, or for extending its business, it shall be the duty of the directors to publish a notice signed by at least a majority of them, in a newspaper in the county, if any shall be published therein, at least three successive weeks, and to deposit a written or printed copy thereof in the post-office addressed to each stockholder at his usual place of residence, at least three weeks previous to the day fixed upon for holding such meeting; specifying the object of the meeting, the time and place when and where such meeting shall be held, and the amount to which it shall be proposed to increase or diminish the capital, and the business of such company so extended, and a vote of at least two-thirds of all the shares of stock shall be necessary to an increase or diminution of its capital stock, or the extension of its business as aforesaid, or to enable a company to avail itself of the provisions of this act.

General
meeting of
stockhold-
ers to in-
crease or
diminish
stock.

§ 22. If at any time and place specified in the notice provided for in the preceding section of this act, stockholders shall appear in person or by proxy, in number representing not less than two-thirds of all the shares of stock of the corporation, they shall organise by choosing one of the directors chairman of the meeting, and also a suitable person for secretary, and proceed to a vote of those present, in person or by proxy, and if on canvassing the votes, it shall appear that a sufficient number of votes has been given in favor of increasing or diminishing the amount of capital, or of extending its business as aforesaid, or for availing itself of the privileges and provisions of this act, a certificate of the proceedings, showing a compliance with the provisions of this act, the amount of capital actually paid in, the whole amount of debts and liabilities of the company, and the amount to which the capital stock shall be increased or diminished, shall be made out, signed and verified by the affidavit of the chairman, and be countersigned by the secretary; and such certificate shall be acknowledged by the chairman, and filed as required by the

Meeting
how orga-
nized and
business
conducted.

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General powers.

first section of this act, and when so filed, the capital stock of such corporation shall be increased or diminished, to the amount specified in such certificate, and the business extended, as aforesaid, and the company shall be entitled to the privileges and provisions and be subject to the liability of this act, as the case may be.

§ 23. Every corporation created under this act, shall possess the general powers and privileges, and be subject to the liabilities and restrictions contained in title third of chapter eighteen, of the first part of the Revised Statutes.

Ante, vol. 1, p. 558.

CHAP. 109.**AN ACT for the protection of gas-light companies.**

PASSED April 1, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Connecting with service pipe.

§ 1. Any person who, with intent to injure or defraud any gas company, body corporate or individual, shall make, or cause to be made, any pipe, tube or other instrument or contrivance, or connect the same, or cause it to be connected, with any main service pipe or other pipe for conducting or supplying illuminating gas, in such manner as to connect with and be calculated to supply illuminating gas to any burner or orifice by or at which illuminating gas is consumed, around or without passing through the meter provided for the measuring and registering the quantity of gas there consumed, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment not exceeding six months, and by fine not exceeding two hundred and fifty dollars.

Injuring meters.

§ 2. Any person who, with intent to injure or defraud any gas company, body corporate or individual, shall wilfully injure, alter or obstruct or prevent the action of any meter provided for the purpose of measuring and registering the quantity of illuminating gas consumed by or at any burner, orifice or place, or cause or procure any such meter to be injured or altered, or the action thereof to be obstructed or prevented, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment not exceeding six months, and by fine not exceeding two hundred and fifty dollars.

CHAP. 312.

AN ACT to amend the act entitled "An act to authorize the formation of gas-light companies," passed February 16, 1848.

PASSED April 15, 1854.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The directors of any corporation formed under the act entitled "An act to authorize the formation of gas-light companies," shall have power to issue bonds to an amount not exceeding one-third of the capital stock actually paid in, for a period not exceeding twenty years, and bearing an interest not exceeding seven per cent. May issue bonds.

§ 2. The proceeds of all bonds issued by authority of the foregoing section shall be applied to the extension or enlargement of the works and the purchase of real estate required for the use of the corporation. Proceeds how applied.

Ante, p. 849.

CHAP. 311.

AN ACT to provide for the inspection and sealing of gas meters, and for the protection of consumers of illuminating gas.

PASSED April 14, 1859; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The governor of this state shall nominate, and by and with the consent of the senate, shall appoint an inspector of gas meters, who shall reside in the city of New York, whose duty it shall be, when required, to there inspect, examine, prove and ascertain the accuracy of any and all gas meters used or intended to be used for measuring, or ascertaining the quantity of illuminating gas furnished by any gas light company in this State, to or for the use of any person or persons, and when found to be or made correct, to seal, stamp or mark all such meters, and each of them, with some suitable device; such device shall be recorded in the office of the secretary of state. Governor to appoint inspector of gas meters.

§ 2. Such inspector shall hold his office for the term of five years from the time of his appointment, and until the appointment of his successor, but may be removed by the governor for sufficient cause; and he shall receive an annual salary of fifteen hundred dollars, to be paid in the first instance out of the state treasury on the warrant of the comptroller. Term of office.

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Salary, &c.

§ 3. Such salary shall be charged to and paid into the state treasury by the several gas light companies in this state, in amounts proportionate to the amounts of the capital stock of said companies respectively, to be ascertained and assessed by the comptroller of this state: and in case such gas light companies, or any or either of them, shall refuse or neglect to pay into the state treasury the amount or portion of said salary which shall be by said comptroller required of them respectively, for the space of thirty days after written notice given by said comptroller to them respectively, to make such payment, then the said comptroller may maintain an action in his name of office, in any court of this state, against any such delinquent gas light company for the said portion or amount of such salary, with interest thereon at the rate of ten per cent per annum, from the time when said notice to make such payment was given, and the costs of the action.

Gas meters
must be in-
spected, &c.

§ 4. It shall not be lawful for any corporation, company or person, at any time after this act shall take effect, to furnish and put in use any gas meter which shall not have been inspected, proved and sealed by said inspector, except during such time as said office of inspector shall be vacant, or said inspector, after request made, shall refuse or neglect to prove and seal the meters furnished for that purpose, and except the meters in use when this act takes effect, and which may be removed for examination or repairs.

Apparatus
for testing
meters.

§ 5. That every such gas light company shall provide and keep in and upon their premises a suitable and proper apparatus, to be approved and sealed by said inspector of meters, for testing and proving the accuracy of the gas meters furnished for use by said company, and by which apparatus every meter may and shall be tested, on the written request of the consumer, to whom the same shall be furnished, and in his presence if he desire it. If any such meter, on being so tested, shall be found defective or incorrect to the prejudice or injury of the consumer, the necessary removal, inspection, correction and replacing of such meter shall be without expense to the consumer; but in all other cases he shall pay the reasonable expenses of such removal, inspection and replacing; and in case any consumer shall not be satisfied with such inspection of the meter furnished to him, and shall give to the company written notice to that effect, he may have such meter re-inspected by the state inspector (if he require it) upon the same terms and conditions as above provided for the original inspection thereof.

Gas must
be supplied
on applica-
tion, &c.

§ 6. Upon the application, in writing, of the owner or occupant of any building or premises within one hundred feet of any main laid down by any such gas light company, and payment by him of all money due from him to the company, the company shall supply gas as may be required for lighting such building or premises, notwithstanding there may be rent or compensation in arrear, for gas supplied, or for meter, pipe

or fittings furnished to a former occupant thereof, unless such owner or occupant shall have undertaken or agreed with the former occupant to pay or to exonerate him from the payment of such arrears; and shall refuse or neglect to pay the same; and if, for the space of ten days after such application, and the deposit of a reasonable sum as in this act provided (if required), the company shall refuse or neglect to supply gas, as required, the company shall forfeit and pay to such applicant the sum of ten dollars, and the further sum of five dollars for every day thereafter during which such refusal or neglect shall continue; provided that no such company shall be required to lay service pipe for the purpose of supplying gas to any applicant, where the ground in which such pipe is required to be laid shall be frozen, or shall otherwise present serious obstacles to laying the same; nor unless the applicant, if required, shall deposit in advance with the company a sum of money sufficient to pay the cost of his portion of the pipe required to be laid, and the expense of laying such portion.

§ 7. That every such gas light company may require that all, each and every person or persons to whom such company shall supply, or shall be requested to supply gas for lighting any building, room or premises, deposit with such company a reasonable sum of money, according to the number and size of lights used or required, or proposed to be used for two calendar months, by such persons or person, and the quantity of gas necessary to supply the same, as security for the payment of the gas rent, or compensation for gas consumed, or rent of meter, pipe and fixtures, to become due to the company, provided, however, that every such gas light company shall allow and pay to every such depositor legal interest on the sum by him deposited, for and during the time his deposit shall remain with the company.

Gas company may compel parties to deposit a certain sum of money.

§ 8. Any officer or other agent of any such gas light company, for that purpose duly appointed and authorized by the company, may, at all reasonable times, upon exhibiting a written authority, signed by the president or secretary of the company, enter any dwelling, store, building, room or place lighted with gas supplied by such company, for the purpose of inspecting and examining the meters, pipes, fittings and works for supplying or regulating the supply of gas and of ascertaining the quantity of gas consumed or supplied, and if any person shall, at any time, directly or indirectly, prevent or hinder any such officer or agent from so entering any such premises, or from making such inspection or examination at any reasonable time, he shall, for every such offence, forfeit and pay to the company the sum of twenty-five dollars.

Officer or agent of company may enter building, &c., to examine meters, &c.

§ 9. If any persons or person supplied with gas by any such gas light company shall neglect or refuse to pay the rent or remuneration due for the same, or for the meter, pipes or fittings, let by the company, for supplying or using such gas, or for ascertaining the quantity consumed as required by

Refusal or neglect to pay rent, &c.

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his or their contract with the company, or shall refuse or neglect, after being required so to do, to make the deposit in this act mentioned, and thereby authorized to be required, such company may prevent and stop the gas from entering the premises of such persons or person; and in all cases in which any such gas light company is or shall be authorized to cut off, prevent or stop the supply of gas from any premises, their officers, agents or workmen may enter into or upon any such premises, between the hours of eight o'clock in the forenoon and six o'clock in the afternoon, and separate, take and carry away any such meter, pipe, fittings or other property of the company, and may disconnect any meter, pipe, fittings or other works, whether the property of the company or not, from the mains or pipes of the company.

Injury to
any pipe,
meter, &c.

§ 10. Every person who shall wilfully or fraudulently injure or suffer to be injured any meter, pipe or fittings belonging to any such gas light company, or prevent any meter from duly registering the quantity of gas supplied through the same, or shall alter the index of any such meter, or in any way hinder or interfere with its proper action or just registration, or shall fraudulently burn the gas of said company, or waste the same, shall, for every such offence, forfeit and pay to such company the sum of twenty-five dollars, and in addition thereto shall pay to said company the amount of damage by them sustained by reason of such injury, prevention, waste, consumption or hindrance.

Penalty for
laying any
pipe with-
out the
same pass-
ing through
meter.

§ 11. Every person who shall lay or place, or cause to be laid or placed, any pipe to communicate with any main or pipe belonging to any such gas light company, or shall otherwise burn or use, or cause to be burned or used, any gas supplied or manufactured by said company, without having the same passed through the meter furnished for measuring and ascertaining the quantity of gas supplied to and consumed by such person, shall forfeit and pay to said company the sum of fifty dollars, and in addition thereto shall also pay to said company the amount of damage by them sustained in consequence, or by reason of such forbidden act.

Restriction.

§ 12. This act and its provisions shall not be deemed applicable to companies engaged in supplying natural gas to consumers.

CHAP. 116.

AN ACT to provide for the appointment of deputy inspectors of gas meters, to reside in different parts of this state.

PASSED March 24, 1860.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The inspector of gas meters is hereby authorized and required to appoint deputy inspectors of gas meters, said deputies to reside wherever gas meters are manufactured in this state and who shall, in their respective places of residence, discharge the same duties as are required of the inspector of gas meters by chap. 311 of the Laws of 1859, and shall be subject to the provisions of said act, such deputies to be paid by the inspector out of his salary hereinafter mentioned at the rate of two dollars per day while actually engaged in the discharge of such duties, and to hold office during the pleasure of said inspector. Deputy
inspector.

§ 2. The inspector of tax meters appointed under and in pursuance of an act to provide for the inspection and sealing of gas meters and for the protection of consumers of illuminating gas, passed April fourteen, eighteen hundred and fifty-nine, shall receive an annual salary of two thousand five hundred dollars, to be paid in the manner as provided by said act of April fourteen, eighteen hundred and fifty-nine. Salary.

§ 3. All acts and parts of acts, so far as they are inconsistent with this act, are hereby repealed. Repeal.

CHAP. 546.

AN ACT to authorise the formation of corporations for the purpose of mining, importing and exporting Guano and other fertilizers.

PASSED April 15, 1857.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. At any time hereafter, any five or more persons who may desire to form a company for the purpose of mining the articles ammoniated or other guano, and importing, exporting, buying or selling the same, and purchasing, chartering and navigating such steam or sailing vessels, and the purchasing of any such real and personal estate as may be necessary, proper or convenient in transacting such business, may make, sign and acknowledge, before some officer competent to take the acknowledgment of deeds, and file in the Corpora-
tions, how
formed.

PART I.

office of the clerk of the county in which a majority of the trustees may reside, and a duplicate thereof in the office of the secretary of state, a certificate in writing, in which shall be stated the corporate name of the said company, the amount of the capital stock; the term of its existence, not to exceed thirty years; number of shares of stock; the number and name of the trustees who shall manage the concerns of said company for the first year.

Powers as a corporation.

§ 2. When the certificate shall have been filed as aforesaid, the persons who have signed and acknowledged the same, and their successors shall be a body politic and corporate in fact and in name, by the name stated in such certificate, and by that name shall have succession and shall possess the general powers and privileges, and be subject to the liabilities and restrictions contained in title three of chapter eighteen, of the first part of the Revised Statutes, and shall also possess all the other powers necessary and incidental to the business of said company.

Trustees.

§ 3. The stock property and concerns of such company shall be managed by not less than five nor more than nine trustees who shall respectively be stockholders in such company and citizens of the United States, and a majority of whom shall be citizens of this state, who shall, except the first year, be annually elected by the stockholders at such time and place as shall be directed by the by-laws of the company; and public notice of the time and place of holding such election shall be published not less than three weeks previous thereto, in at least two daily newspapers printed in the place where the operations of the company shall be carried on; and the election shall be made by such of the stockholders as shall attend for that purpose either in person or by proxy. All elections shall be by ballot, and each stockholder shall be entitled to as many votes as he owns shares of stock in the said company, and the persons receiving the greatest number of votes shall be trustees; and when any vacancy shall happen among the trustees, by death, resignation or otherwise, it shall be filled for the remainder of the year, in such manner as may be provided for by the by-laws of the said company.

Election of trustees.

§ 4. In case it shall happen at any time that an election of trustees shall not be made on the day designated by the by-laws of said company when it ought to have been made, the company for that reason shall not be dissolved but it shall be lawful on any other day to hold an election for trustees in such manner as shall be provided for by the said by-laws; and all acts of trustees shall be valid and binding, as against such company, until their successors shall be elected.

Officers of the companies.

§ 5. There shall be a president of the company, who shall be designated from the number of the trustees; and, also, such subordinate officers as the company by its by-laws may designate, who may be elected or appointed, and required to

give such security for the faithful performance of the duties of their office as the company by its by-laws may require.

§ 6. It shall be lawful for the trustees to call in and demand from the stockholders respectively all such sums of money by them subscribed, at such times and such payments or installments as the trustees shall deem proper or as may have been agreed upon at the time of subscription, under the penalty of forfeiting the shares of stock subscribed for and all previous payments made thereon, if payment shall not be made by the stockholders within sixty days after a personal demand or notice requiring such payment shall have been published for six successive weeks in a newspaper in the county where the business of the company shall be carried on as aforesaid.

Calls on the stock.

§ 7. The trustees of such company shall have power to make such prudential by-laws as they shall deem proper for the management and disposition of the stock and business affairs of such company, not inconsistent with the laws of this state, and prescribing the duties of officers, artificers and servants that may be employed, for the appointment of all officers, and for carrying on all kinds of business within the objects and purposes of such company.

By-laws.

§ 8. The stock of such company shall be deemed personal estate, and shall be transferable in such manner as shall be prescribed by the by-laws of the company; but no share shall be transferable until all previous calls thereon shall have been fully paid in or shall have been declared forfeited for the non-payment of calls thereon; and it shall not be lawful for such company to use any of their funds in the purchase of any stock in any other corporation.

Transfer of stock.

§ 9. The copy of any certificate of incorporation filed in pursuance of this act, certified by the county clerk or his deputy to be a true copy and of the whole of such certificate, shall be received in all courts and places as presumptive legal evidence of the facts therein stated.

Certificate when evidence.

§ 10. Any joint stock company heretofore formed for the purpose of mining, importing and exporting guano, may avail itself of the privileges of this act, by the acceptance of the same at a meeting of such joint stock company, called according to the articles of its association, upon a vote of the majority of the stockholders in interest; and all shares of stock heretofore issued or agreed to be issued by said joint stock company upon further payments to it, shall be declared fully paid stock; when such payments as shall have been agreed upon shall have been made to the trustees of the company created under this act, and a majority of the trustees of such company may sell or dispose of any stock remaining unsold, at such price or prices as they may deem most conducive to the interests of the company; and all stock so sold, when paid for at the prices fixed or agreed

Existing companies.

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upon, shall be considered full stock, and not liable to further assessment.

Liability of
stockhold-
ers.

§ 11. All the stockholders of every company incorporated under this act, shall be severally individually liable to the creditors of the company, in which they are stockholders, to an amount equal to the amount respectively subscribed by them, for all debts and contracts made by such company, until the whole amount so subscribed by them respectively shall have been paid to the said company.

Annual re-
ports.

§ 12. Every such company shall annually, within twenty days from the first of January, make a report, which shall be published in two daily newspapers in the county where the principal office of said company is located; such report shall set forth the number of shares of full paid stock issued; the number of shares the avails of which have been used for the purchase of real estate and guano islands; the number of shares on which installments are due and unpaid, and the amount of the same; the number of shares held and owned by the company, and the amount actually employed as working capital; and the names and residences of the stockholders, and the number of shares held by each, which report shall be signed by the president and a majority of the trustees and verified by the oath of the president and secretary of said company and copies thereof filed in the offices where the original certificates shall have been filed.

Dividends.

§ 13. If the trustees of any such company shall declare and pay any dividend when the company is insolvent, or any dividend, the payment of which would render it insolvent, or which would diminish the amount of its capital stock, they shall be jointly and severally liable for all the debts of the company, then existing, and for all that shall be thereafter contracted, while they shall respectively continue in office, provided that if any of the trustees shall object to the declaring of such dividend, or to the payment of the same, and shall at any time before the time fixed for the payment thereof file a certificate of their objection, in writing, with the clerk of the company, and with the clerk of the county, they shall be exempt from the said liability.

Payment
for stock.

§ 14. Nothing but money shall be considered as payment of any part of the capital stock; but the trustees may, in their discretion, issue stock in payment for the purchase of real or personal property necessary to their business; and no loan of money shall be made by any such company to any stockholder therein; and if any such loan shall be made to a stockholder, the officers who shall make it, or who shall assent thereto, shall be jointly and severally liable to the extent of such loan, and interest, for all the debts of the company, contracted before the repayment of the sum so loaned.

False state-
ments.

§ 15. If any certificate or report made, or public notice given by the officers of any such company in pursuance of the provisions of this act, shall be false in any material repre-

sentation, all the officers who shall have signed the same, knowing it to be false, shall be jointly and severally liable for all the debts of the company contracted while they are stockholders or officers thereof.

§ 16. No person holding stock in any such company as executor, administrator, guardian or trustee, and no person holding such stock as collateral security shall be personally subject to any liability as stockholder of such company; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly, and the estate and funds in the hands of such executor, administrator, guardian or trustee, shall be liable in like manner and to the same extent as the testator or intestate, or the ward or person interested in such trust fund would have been if he had been living and competent to act and held the same stock in his own name.

Who to be stockholders.

§ 17. Every such executor, administrator, guardian or trustee shall represent the share of stock in his hands at all meetings of the company, and may vote accordingly as a stockholder.

§ 18. The stockholders of any company organized under the provisions of this act, shall be jointly and severally individually liable for all debts that may be due and owing to all their laborers, servants and apprentices for services performed for such corporation.

Liability of stockholders.

§ 19. The legislature may at any time alter, amend, annul or repeal this act, or may annul or repeal any incorporation formed or created under this act, but such amendment or repeal shall not, nor shall the dissolution of any such company take away or impair any remedy given against any such corporation, its stockholders or officers for any liability which shall have been previously incurred.

Power to amend or repeal.

§ 20. No stockholder shall be personally liable for the payment of any debt contracted by any company formed under this act, who shall have ceased to be a stockholder in any such company, unless a suit for the same shall have been commenced within two years from the time he shall have ceased to be a stockholder in such company, nor until an execution against the company shall have been returned unsatisfied in whole or in part.

Limitation of liability.

CHAPTER XIX.

Weights and Measures.

CHAP. 297.

AN ACT concerning standard measures of capacity.

PASSED April 29, 1829.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Standard of
measures of
capacity.

§ 1. The unit or standard of measures of capacity, as well for liquids as for dry commodities not measured by heaped measures, for which all other measures of capacity shall be derived and ascertained, shall be the gallon.

Two kinds
of gallons.

§ 2. There shall continue to be two kinds of gallons, one for the measure of all liquids, and one for the measure of all other substances not measured by heaped measure; the first to be denominated the gallon for liquid measures, and the second to be denominated the gallon for dry measures.

Liquors.

§ 3. The gallon for liquids shall be a vessel of such capacity as to contain at the mean pressure of the atmosphere, at the level of the sea, eight pounds of distilled water, at its maximum density.

Dry mea-
sures.

§ 4. The gallon for dry measure shall be a vessel of such capacity as to contain, at the mean pressure of the atmosphere, at the level of the sea, ten pounds of distilled water, at its maximum density.

Standard to
be made of
brass.

§ 5. Such standard gallons shall be made of brass; and in case of loss, shall be restored, according to the proportions above mentioned, under the direction of the state sealer of weights and measures.

Division by
the No. 2.

§ 6. All other measures of capacity for liquids, shall be derived from the liquid gallon by continual division by the number two, so as to constitute half gallons, quarts, pints, half pints and gills.

Multiplica-
tion by the
No. 2.

§ 7. All other measures of capacity, for substances not being liquids, shall be derived from the dry gallon by continual multiplication, by the number two in the ascending scale, so as to constitute pecks, half bushels and bushels; and by continual division by the same number in the descending scale, so as to constitute half gallons, quarts, pints, half pints and gills.

Repeal of
the three
sections.

§ 8. The eleventh, twelfth and thirteenth sections of the second title of the nineteenth chapter of the first part of the Revised Statutes, shall be and they are hereby repealed; and until the legislature shall make provision by law, for the con-

struction of the standard weights and measures prescribed in the said second title, the standard weights and measures now in the office of the secretary of state, shall be and remain the standards for ascertaining all weights and measures throughout this state.

CHAP. 315.

AN ACT providing for the appointment of an Assistant State Sealer of Weights and Measures.

PASSED April 26, 1831.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. There shall be appointed by the senate, on the nomination of the governor, an assistant state sealer of weights and measures, to reside in the city of Albany, who shall be a practical mechanic, skilled in the manufacturing and regulating of weights and measures, and who shall hold his office for the term of two years, and until another shall be appointed in his stead.

§ 2. So much of the Revised Statutes as provides that the county sealer of the county of Albany shall act as assistant state sealer, is hereby repealed.

CHAP. 282.

AN ACT to create and regulate a standard for measuring bran and shorts.

PASSED May 11, 1835.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The standard measure or capacity for bran and shorts shall be forty quarts to the bushel. The measure used for measuring the said commodities shall be made round with a plain or even bottom, and shall be thirteen inches and a half in diameter in the clear at the top, and fifteen inches and a half in diameter in the clear at the bottom, and of sufficient depth to contain the aforesaid quantity when stricken with a round straight stick or roller of uniform diameter.

CHAP. 134.

AN ACT in relation to weights and measures.

PASSED April 11, 1851; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Weights
and meas-
ures des-
cription of.

§ 1. The standard weights and measures now in charge of the secretary of state, being the same that were furnished to this state by the government of the United States, in accordance with a joint resolution of Congress, approved June 14, 1836, and consisting of one standard yard measure, one set of standard weights, comprising one Troy pound, and nine Avoirdupois weights of one, two, three, four, five, ten, twenty, twenty-five and fifty pounds respectively; one set of standard Troy ounce weights, divided decimally from ten ounces to the one ten-thousandth of an ounce; one set of standard liquid capacity measures, consisting of one wine gallon of two hundred and thirty-one cubic inches, one half-gallon, one quart, one pint and one half-pint measure, and one standard half-bushel, containing one thousand and seventy-five cubic inches and twenty-one hundredths of a cubic inch, according to the inch hereby adopted as standard, shall be the standards of weight and measure throughout this state.

The unit.

§ 2. The unit or standard measure of length and surface from which all other measures of extension, whether they be lineal, superficial or solid, shall be derived and ascertained, shall be the standard yard designated in the first section of this act.

The yard.

§ 3. The yard shall be divided into three equal parts called feet, and each foot into twelve equal parts called inches; for measures of clothes and other commodities commonly sold by the yard, it may be divided into halves, quarters, eighths and sixteenths.

The rod.

§ 4. The rod, pole or perch shall contain five and a half such yards; and the mile, one thousand seven hundred and sixty such yards; the chain for measuring land, shall be twenty-two yards long, and shall be divided into one hundred equal parts called links.

The acre.

§ 5. The acre, for land measure, shall be measured horizontally, and contain ten square chains, and shall be equivalent in area, to a rectangle sixteen rods in length, and ten in breadth; six hundred and forty such acres being contained in a square mile.

Weights.

§ 6. The units or standards of weight from which all other weights shall be derived and ascertained, shall be the standard Avoirdupois and Troy weights designated in section first of this act.

CHAP. XIX.
The pound.

§ 7. The Avoirdupois pound, which bears to the Troy pound the ratio of seven thousand to five thousand seven hundred and sixty, shall be divided into sixteen equal parts called ounces: the hundred weight shall consist of one hundred Avoirdupois pounds, and twenty hundred weight shall constitute a ton. The Troy ounce shall be equal to the twelfth part of the Troy pound.

§ 8. The units or standards of measures of capacity for liquids, from which all other measures of liquids shall be derived and ascertained, shall be the standard gallon and its parts, designated in the first section of this act. The gallon.

§ 9. The barrel shall be equal to thirty-one and a half gallons, and two barrels shall constitute a hogshead. The barrel.

§ 10. The unit or standard measure of capacity for substances not being liquids, from which all other measures of such substances shall be derived and ascertained, shall be the standard half-bushel mentioned in section first of this act. Half bushel.

§ 11. The peck, half peck, quarter peck, quart and pint measures, for measuring commodities which are not liquid, shall be derived from the half bushel, by successively dividing that measure by two. The peck,
&c.

§ 12. The measures of capacity for coal, ashes, marl, manure, Indian corn in the ear, fruit and roots of every kind, and for all other commodities, commonly sold by heap measure, shall be the half-bushel and its multiples and subdivisions; and the measures used to measure such commodities shall be made cylindrical, with plain and even bottom, and shall be of the following diameters; from outside to outside the bushel, nineteen and a half inches; half-bushel, fifteen and a half inches; and the peck, twelve and a third inches. Measures
of coal,
ashes, &c.

§ 13. All commodities sold by heap measure shall be duly heaped up in the form of a cone; the outside of the measure by which the same shall be measured to be the limit of the base of the cone, and such cone to be as high as the article will admit. Heap measure.

§ 14. All contracts hereafter made within this state for work to be done, or for anything to be sold or delivered by weight or measure, shall be taken and construed according to the standards of weight and measure hereby adopted as the standards of this state. Contracts
how construed.

§ 15. Whenever wheat, rye, Indian corn, barley or oats, shall be sold by the bushel, and no special agreement shall be made by the parties as to the mode of measuring, the bushel shall consist of sixty pounds of wheat, fifty-six pounds of rye or Indian corn, forty-eight pounds of barley and thirty-two pounds of oats. Number of
pounds to
the bushel.

§ 16. A superintendent of weights and measures for this state, who shall be a scientific man, of sufficient learning and mechanical tact to perform the duties of his office, shall be appointed by the governor, lieutenant governor and secretary Superintendent.

PART I.

of state, or any two of them, at a meeting called for this purpose by the secretary of state, and shall hold his office during their pleasure.

His duties. § 17. It shall be the duty of the superintendent to take charge of the standards adopted by this act as the standards of the state; to see that they are deposited in a fire-proof building belonging to the state, from which they shall in no case be removed, and to take all other necessary precautions for their safe keeping. It shall also be his duty to correct the standards of the several cities and counties, and provide them with such standards, balances and other means of adjustment, as may be necessary; and as often as once in ten years, to compare the same with those in his possession; he shall, moreover, have a general supervision of the weights and measures of the state.

His salary. § 18. The superintendent shall receive for his services a salary of three hundred dollars a year, and for the first two years, such additional sum as may be certified to as just and proper by the secretary of state, but in no case shall such allowance exceed two hundred dollars in one year.

Copies of standard weights and measures. § 19. The state superintendent of weights and measures shall procure for the state, a complete set of copies of the original standards of weights and measures adopted by this act, which shall be used for adjusting county standards, and in no case shall the original standards be used for any other purpose than the adjustment of this set of copies, and for scientific purposes; he shall also procure such apparatus and fixtures as are necessary in the comparison and adjustment of the county standards; for these purposes he is hereby authorised to expend a sum not exceeding fifteen hundred dollars, which is hereby appropriated from any money in the treasury applicable to that purpose.

County sealer. § 20. The board of supervisors of each county shall, at their annual meeting, appoint a county sealer of weights and measures, who shall hold his office during the pleasure of the board.

His duty. § 21. It shall be the duty of the county sealer to take charge of the county standards and standard balances and provide for their safe keeping; to provide the town with such standard weights and measures and standard balances as may be wanting, and to compare the town standards with those in his possession as often as once in every five years; and also may perform and execute the duties of town sealer in such towns and for such times as said towns may not have the requisite standard of weights and measures therein, and shall receive for such services the same fees as are allowed to town sealers for similar services. As amended by Laws of 1865, ch. 666. Post, vol. 6, p. 576.

Town sealer. § 22. A town sealer of weights and measures shall be appointed by the supervisor and justices of the peace of the town, and shall hold his office during their pleasure.

His duty. § 23. It shall be the duty of the town sealer to take charge and provide for the safe keeping of the town standards, and to see that the weights, measures and all apparatus used for determining the quantity of commodities used throughout the town, which shall be brought to him for that purpose, agree with those standards in his possession.

CHAP. XIX.
Copies of
standards
for coun-
ties.

§ 24. The supervisors of each county shall, at their first annual meeting after the passage of this act, provide for procuring the proper standards of weights and measures for their respective counties, and for each of the towns therein; and all expenses directly incurred in furnishing the several cities, counties and towns with standards, or in comparing and adjusting those already in their possession, shall be borne by the respective cities, counties and towns for which such expenses shall have been incurred.

See Laws of 1864, ch. 326, § 4.

§ 25. The state superintendent of weights and measures shall see that there are impressed on all the city and county standards the emblem of the United States, the letters N. Y., and such other device as he shall direct for the particular county; and the county sealers shall see that in addition to the above device there is impressed on the town standards such other device as the board of supervisors shall direct for the several towns.

Devices for
weights
and
measures.

§ 26. Whenever the several sealers of the cities, counties and towns shall compare weights and measures and find or make them to correspond with the standards in their possession, they shall seal and mark such weights and measures with the appropriate devices.

Weights
and
measures to
be marked.

§ 27. Each sealer shall be entitled to receive for his services, at and after the following rates: Fees.

For sealing and marking every beam, ten cents;

For sealing and marking measures of extension, at the rate of ten cents per yard, not to exceed fifty cents for any one measure;

For sealing and marking every weight, five cents;

For sealing and marking liquid and dry measures, ten cents for each measure. He shall also be entitled to a reasonable compensation for making weights and measures, conformed to the standards in his possession.

§ 28. Whenever the state superintendent of weights and measures shall resign, be removed from office, or remove from the city of Albany, or whenever any city, county, or town sealer shall resign, be removed from office, or remove from the city, county, or town in which he shall have been appointed or elected, it shall be the duty of the person so resigning, removed, or removing, to deliver to his successor in office all the standard beams, weights and measures in his possession.

In case of
vacancies,
standards
to be deli-
vered to
successors
in office.

§ 29. In case of the death of any such sealer of weights and measures, his representative shall in like manner deliver to his successor in office, such beams, weights, and measures.

Ditto in
case of
death.

§ 30. In case of refusal or neglect to deliver such standards, entire and complete, the successor in office may maintain an action against the person or persons so refusing or neglecting, and recover double the value of such standards as shall not have been delivered. And in every such action in which

Penalty for
refusal.

PART I.

Damages
how dispo-
sed of.

judgment shall be rendered for the plaintiff, he shall recover double costs.

§ 31. One-half of the damages recovered in every such action, shall be retained by the person so recovering, and the other shall be applied to the purchase of such standards as may be required in his office.

Penalty for
using false
weights
and meas-
ures.

§ 32. If any person or persons shall hereafter use any weights, measures, beams, or other apparatus, for determining quantity of commodities, which shall not be conformable to the standards of this state, whereby any person shall be injured or defrauded, he shall be subject to a fine not exceeding five dollars for each offence, to be sued for and collected by the city or town sealer; he shall also be subject to an action at law, in which the defrauded person shall recover treble damages and costs; and it shall be the duty of every person keeping any store, grocery or other place for the sale or purchase of such commodities as are usually sold by weight or measure, once in each year to procure the weights and measures used by him to be compared with the standard in this act provided, and shall be subject to a fine of five dollars for every neglect to comply with this provision, to be recovered by any one who shall prosecute therefor.

Surveyor's
testimony.

§ 33. No surveyor shall give evidence in any cause depending in any of the courts of the state, or before arbitrators, respecting the survey or measurements of lands which he may have made, unless such surveyor shall make oath, if required, that the chain or measure used by him was conformable to the standards which were the standards of the state, at the time such survey was made.

Law when
to take
effect.

§ 34. Sections sixteen, seventeen, eighteen, and nineteen of this act, shall take effect immediately, and the remaining portion one year from the date of its final passage.

Repeal.

§ 35. Chapter nineteen, title second, part first, of the Revised Statutes, "of weights and measures," is hereby repealed.

CHAP. 326.

AN ACT to amend the act entitled "An act in relation to weights and measures," passed April eleventh, eighteen hundred and fifty-one.

PASSED April 15, 1854; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

All the
counties to
be supplied.

§ 1. That for the better enabling the state superintendent of weights and measures to carry into effect that clause of the seventeenth section of the act of April eleventh, eighteen hundred and fifty-one, entitled "An act in relation to weights and measures," which requires that the said superintendent

shall provide the several counties of the state with such standards and balances as may be necessary, he is hereby authorized to contract with such manufacturers as he may select for their ability and experience, for the making and furnishing so many sets of weights and measures and such and so many balances as shall be necessary to supply those counties that are not yet provided with a proper and efficient set of standard weights and measures and balances to meet the requirements of the said act in relation to weights and measures, as specified more particularly in the twenty-first section of the same, together with one additional set of such standards, to remain on deposit in the office of the said state superintendent, as a model whereupon to construct new standards for such counties as may be hereafter erected within this state. The said standard shall be fabricated and manufactured of such materials, denominations and fashion of workmanship as shall be directed by the said superintendent, and conformed by the manufacturers as nearly as practicable to the standard established by the United States government. The cost and expenses of the said standards shall be paid by the treasurer of the state, on the warrant of the comptroller, based upon the certificate of said superintendent, stating that the said sets of weights, measures and balances have been delivered into his possession, and have been examined and approved by him; provided, as an essential condition, that the said standards are obtainable at such rates as shall be deemed just and reasonable by the superintendent.

Expenses
how paid.

§ 2. On receiving the aforesaid weights, measures and balances, the state superintendent of weights and measures shall forthwith proceed to examine the balances and compare each set of weights and measures with and conform the same as exactly as possible to the state standard weights and measures in his possession; and shall thereupon forward one set of such standard weights and measures, together with the requisite balances, to the county clerk or county sealer of each county in the state not already supplied with the same, for the use of the county sealer of such county, as specified in the twenty-first section of the act to which this is an addition; the cost of transportation to be defrayed out of such county treasury respectively, and the fees and expenses of the state superintendent for verification and sealing to be paid by the county treasurer to the said superintendent on his order.

Examina-
tion and
distribu-
tion.

§ 3. In order to indemnify the state treasurer for the expenses incurred under the first section of this act, the prime cost of each set of standards shall be charged to the county to which the same is assigned, and shall remain to the debit of said county until fully repaid, but without interest for one year after the date of the delivery of such set of standards; and the board of supervisors of every such county, at their first annual meeting after the reception of such set of standards, shall provide the means to meet the expenses and

Prime cost
to be charg-
ed to the
county.

PART I.

charges incident thereto, and shall authorize the county treasurer to pay into the treasury of the state the prime cost of such standards, together with the interest accruing upon the same from one year after the reception of such standards.

§ 4. So much of the twenty-fourth section of the act entitled "An act in relation to weights and measures," passed April eleventh, eighteen hundred and fifty-one, as requires the supervisors of each county to provide for procuring a set of county standards, is modified by the preceding third section of this act, so far as respects the several counties that have not acted under the said twenty-fourth section; but the remainder of the section shall remain in full force, to the effect that the supervisors of each county shall, soon after the passage of this act, provide for procuring the proper standard weights, measures and balances for each of the towns in said county, at the expense of such towns respectively.

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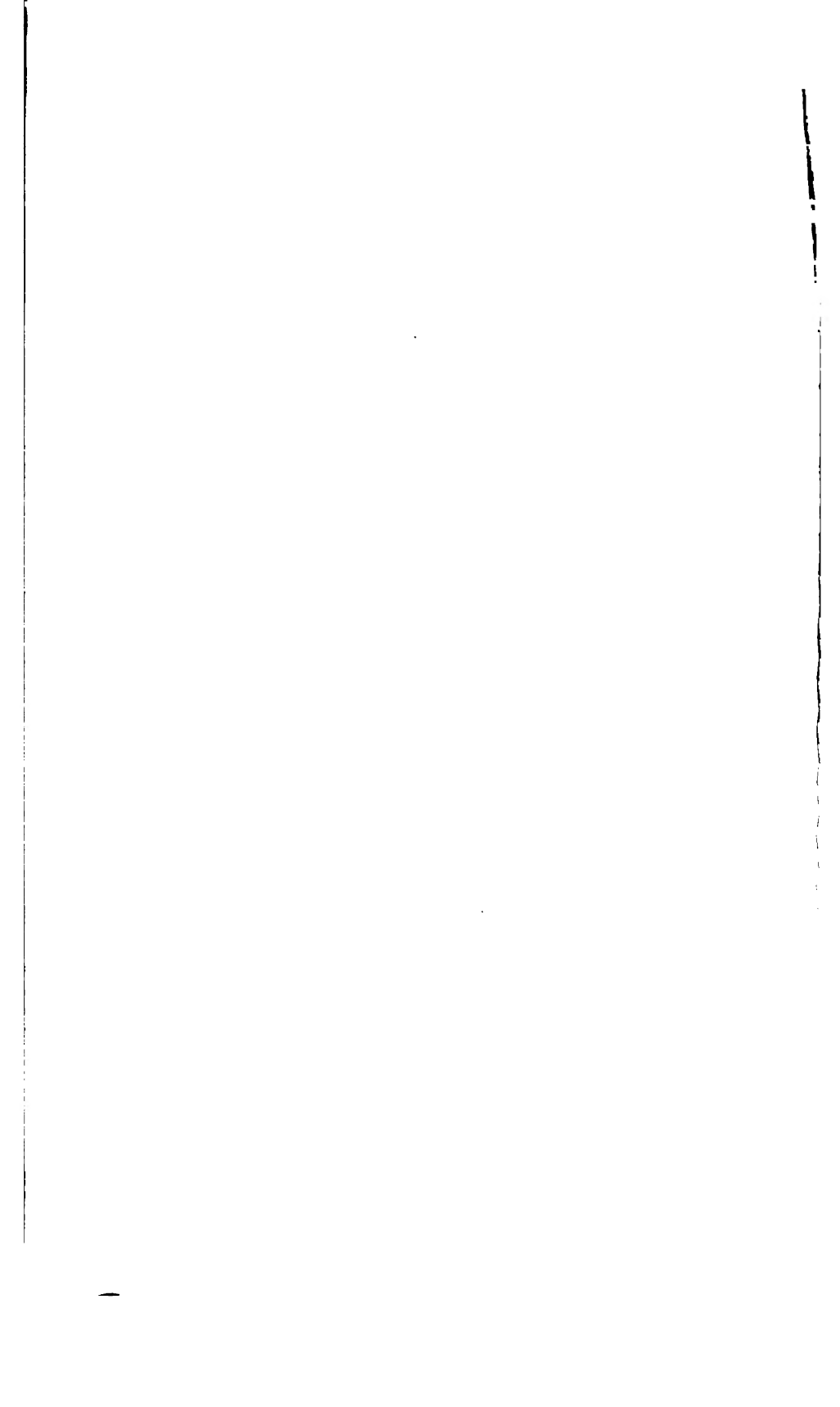
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